X

Ofcom
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Via Email

To whom it may concern,

Response to Consultation: Protecting children from harms online

Thank you for the opportunity to provide a written response on the important second phase of Ofcom's regime to protect children from harms online.

X is committed to working with Ofcom, other regulators, industry partners and external experts to strengthen online safety measures and protections, while maintaining our overarching commitment to freedom of expression, privacy, and procedural fairness. We trust that this written submission will provide useful input.

While X agrees that robust strategies for mitigating the risk of harm to children are fundamental, we advocate for a balanced approach which protects children without compromising user privacy and freedom of expression. Implementing these strategies effectively requires global collaboration between regulators, industry, and child protection experts.

In line with our requirement that users must be 13 years of age to access the platform, we are currently examining different age assurance options, while carefully considering the legal global implications, privacy by design principles and the importance of online anonymity to minorities and whistleblowers. In addition, we have been engaging with the ICO on compliance with its Age Appropriate Design Code; have supported the Irish DPC on the development of its 'Fundamentals for a Child-Oriented Approach to Data Processing' as well as engaging with the DPC to develop a Code of Conduct about the protection of children's privacy.

As part of X's commitment to protecting children online, we are members of a number of child protection initiatives, such as the Tech Coalition, We Protect, and the Child Protection Lab. We also support the UK Safer Internet Centre, and we continue to welcome opportunities to engage with child protection NGOs.

Below, we outline some of the key themes which we ask Ofcom to provide more clarity on, in its final statement following this consultation period.

Definition of 'user'

It will be important for services to understand exactly how Ofcom interprets a 'user' including for the purpose of determining 'significant' numbers of children. User numbers may be measured in a range of ways, for example there is a distinction to be made between registered accounts, or non-registered users (users without an account, or logged-out users that are able to engage with the service). We think Ofcom should provide more specificity in this area, or services are likely to have a wide range of statistics based

on different variables and may unnecessarily over-reach on internal processes in an attempt to comply with a large suite of added duties.

Definition of a 'significant' number of children

Ofcom's draft guidance on 'Children's Access Assessments' states that *'The Act does not define what is meant by a 'significant number' of users who are children…A significant number…means a number or proportion that is material in the context of your service. Even a relatively small number or percentage of children could be a significant number.'* Further, Ofcom has indicated that the onus will fall on services to be able to explain and justify cases where their UK user base is not considered significant.

It will be a challenge for services to determine a 'significant number' for the purpose of conducting an accurate child access assessment in the absence of any benchmarks. Therefore, we request that Ofcom offers more robust guidance and clarity on this. This is important given the extensive duties relating to risk assessments before determining lengthy appropriate measures to put in place to prevent and protect children from encountering different types of harm - all of which are underpinned by the initial child access assessment.

Age estimation or age verification

X welcomes Ofcom's guidance in collaboration with the ICO on 'highly effective' age assurance approaches which provides useful insights into Ofcom's thinking, given how fundamental this aspect is to the second phase of the regime. We request that Ofcom provides guidance to address the wording within the Act which makes a distinction between 'age verification' or 'age estimation' techniques to consider how age estimation is being considered more broadly, including via more complicated approaches, where different age assurance approaches may be combined.

We also urge Ofcom to think more broadly about flexible approaches to age assurance which may have different ramifications. For example, a range of businesses, charities, clubs and societies use social media platforms as part of their work. Age assurance approaches need to allow for such accounts as part of their frameworks. A one-size-fits-all approach is likely to negatively impact such accounts.

Device-level age verification

Ofcom makes clear that online platforms are responsible for ensuring highly effective age assurance processes are implemented soon after the children's safety duties come into force - by mid 2025, according to the current roadmap. However, we think Ofcom should work more closely with international regulators and legislators on device or app store age verification options, to understand where tensions exist with current UK regulation and the timing of implementation. For example, in the US, we understand that conversations on draft legislation are progressing quickly. In the event legislation is imminent, this is very likely to influence the decisions global companies make with respect to age assurance for UK audiences in future. X is committed to continued collaboration with industry in this area because we think that device or app store level age verification could provide global, scalable solutions which preserve privacy, improve user protections and reduce significant obstacles to people accessing online services.

Children in different age groups

Ofcom's guidance provides a helpful snapshot of the harms relevant to different age groups considering developmental stages and varying online behaviours. To help services understand how harms impact different age groups, we think that Ofcom should seek to provide regular updated evidence on the different types of harm which may be relevant to aggregated groups, particularly as societal harms evolve.

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Thank you for the opportunity to respond to this consultation. We remain committed to participating in Ofcom's future consultations and other initiatives which help support user safety.

Sincerely,

The X team

17 July 2024