

Online safety Transparency consultation

Consultation on transparency guidance

Consultation

Published 26 July 2024

Closing date for responses: 4 October 2024



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1. Overview

- 1.1 Ofcom is the UK's communications regulator, overseeing sectors including telecommunications, post, broadcast TV and radio, and online services. We were appointed the online safety regulator under the Online Safety Act 2023 (the Act) in October 2023. The Act makes platforms – including social media, search, and pornography services – legally responsible for keeping people, especially children, safe online.
- 1.2 Certain duties in the Act apply to all regulated services, whilst other – additional – duties apply only to certain services. The Act introduces a framework for categorising those services for which these additional duties apply. The duty to produce transparency reports is one of a range of additional requirements that applies to these categorised services. Ofcom is itself also required to produce its own transparency report that draws conclusions based on the substance of the reports produced by providers.
- 1.3 In respect of these duties relating to transparency reporting, Ofcom is required by the Act to produce statutory guidance explaining our proposed approach, including: (i) the process that Ofcom will adopt for the purposes of determining what providers must include in their transparency reports, and (ii) how information from such reports will be used to inform Ofcom's own transparency report.
- 1.4 Our proposed guidance is therefore the subject of this consultation and may be found in a [separate document in Annex A and is available](#).

What this document covers

- 1.5 Ofcom is required to consult on the proposals in our draft guidance and consider input from stakeholders.¹ Once we have reviewed responses to this consultation, we will publish a statement explaining the approach that we decide to take, complete with the final version of the transparency guidance.
- 1.6 **This consultation document** should be read first and provides the necessary background and context that stakeholders should be aware of when reading the draft guidance and responding to the consultation. It covers:
 - a) a summary of the relevant legal framework;
 - b) Ofcom's timeline for implementation of the transparency regime;
 - c) how transparency reporting fits into the online safety regime;
 - d) the questions that we are asking stakeholders to consider in responding to this consultation on the draft guidance;
 - e) our assessment of the impact of our proposed transparency guidance; and
 - f) how to respond to this consultation.

¹ Section 78(2) of the Act.

2. Background

Application of additional duties

- 2.1 A small proportion of providers of services regulated under the Act² will be required to comply with a range of additional requirements, largely focused on bringing an appropriate level of safety, transparency, and accountability to the online world.³ The duty to publish transparency reports is one of these additional duties.
- 2.2 Providers will only have to observe additional duties where Ofcom has assessed their service(s) to have met certain threshold conditions. These thresholds will be set by Government in secondary legislation. There will be specific conditions that apply to user-to-user services and to search services and combined services. Ofcom will designate relevant services as either category 1 or 2B (user-to-user services) or category 2A (search services or combined services). The combination of the additional duties that apply depends on which of these categories the service in question is in.
- 2.3 Ofcom will publish a register of these categorised services and keep it up to date.⁴ The register will have three parts, one part for each category. Ofcom will conduct regular assessments to ensure that the register remains accurate and will re-publish the register as necessary to reflect the results of those assessments.

Additional duties: transparency reporting

- 2.4 Where a service appears on the register of categorised services, the provider of that service will be liable to produce transparency reports. Once a year, Ofcom must issue every such provider with a transparency notice (“a notice”) requiring them to produce a report about that service (“a transparency report”).⁵
- 2.5 Each transparency notice must detail a series of requirements. Specifically, Ofcom will set out: the information to be included in the provider’s transparency report, the format the information should take, and the date for the report to be both submitted and published.⁶

² A regulated service includes a user-to-user service or search service that has links with the United Kingdom and is not otherwise exempt by the Act. A regulated user-to-user service can be a combined service if it includes a public search engine. See Part 2 of the Act for more on these key definitions.

³ Category 1 services will need to comply with a series of additional duties. These include duties relating to: transparency reporting; enhanced requirements on risk assessments and record keeping; terms of service; protections regarding news publisher and journalistic content and content of democratic importance; user empowerment features; user identity verification; prevention of fraudulent advertising; and disclosure of information concerning deceased child users. Services designated as Category 2A or 2B services will only be required to comply with a sub-set of these duties, as outlined in the Act.

⁴ See section 95(2) of the Act.

⁵ Where a provider is a provider of more than one categorised service, a notice must be given to the provider in respect of each categorised service (see section 77(2) of the Act)

⁶ Section 77(3) of the Act.

- 2.6 Where a provider receives a transparency notice, it must produce a transparency report in accordance with the terms of that notice, ensuring the information is complete and accurate in all material aspects.⁷
- 2.7 The information that Ofcom may require a provider to publish in its report will depend on the category of the relevant service and the type of service. In particular:
- 2.8 Ofcom may only require providers of Category 1 and 2B services to produce “user-to-user information” in their transparency reports. This means information about one or more of the matters in Part 1 of Schedule 8 to the Act provided it relates to the user-to-user part of the service;⁸
- 2.9 Ofcom may only require providers of Category 2A services to produce “search engine information” in their transparency reports.⁹ This means information about one or more of the matters in Part 2 of Schedule 8 to the Act, provide it relates to the search engine of the service; and
- 2.10 where the service is a combined service, special rules apply depending on the parts of the register that it falls within.¹⁰
- 2.11 The list of matters referred to above in 2.8 can be found in Schedule 8 of the Act and is included as an annex in our draft guidance. The matters are broad and cover a range of topics relating to online safety and the provisions of the Act. Our draft guidance sets out details about how Ofcom determines what information to require providers to report.
- 2.12 Separately, Ofcom must also produce and publish its own transparency report at least once a year summarising insights and conclusions drawn from the transparency reports produced by service providers. This must include patterns and trends, good industry practice and may also include additional information Ofcom considers relevant to help contextualise those findings for the public, such as new research.¹¹

Our roadmap for online safety regulation

- 2.13 Ofcom is taking a phased approach to implementation in line with the structure of the Act and as agreed with the Government.
- a) The first phase relates to illegal harms. We started consulting on our draft codes of practice and guidance for these duties in November 2023 and plan to publish our final codes and guidance once the consultation and development phase has concluded.
 - b) Phase two relates to the protection of children. We published our draft codes of practice and guidance for these duties in May 2024.
 - c) The third phase of implementing the Act focuses on our codes of practice and guidance on the additional requirements that apply to providers of categorised services. The

⁷ Section 77(4) of the Act.

⁸ For the definition of “user-to-user part (of a service)” see section 236 of the Act.

⁹ For the definition of “search engine” see section 229 of the Act.

¹⁰ If a combined service is provided that is both a Category 2A service and a Category 1 or 2B service, Ofcom may require the production of user-to-user information or search engine information or both. However, if a combined service is provided that is only a Category 2A service and not a Category 1 or 2B service, then Ofcom may only require the production of search engine information.

¹¹ Section 159 (1-5) of the Act

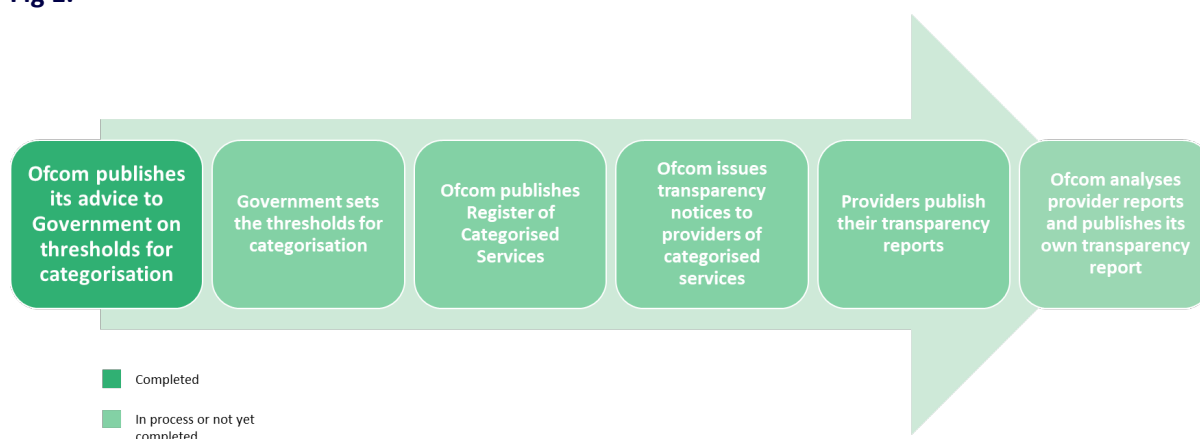
timings for the third phase are contingent on the Government publishing the thresholds for categorisation in secondary legislation.

- 2.14 Once this is complete, Ofcom will publish the register of categorised services – the list of services which will be required to comply with certain additional duties in the Act. This consultation is the first of several that Ofcom will publish as part of its work for the third phase of online safety regulation.
- 2.15 Ofcom plans to publish the remainder of its third phase proposals in 2025. For more information on this, see Ofcom’s [Call for Evidence](#) on additional duties for Categorised services.

Timings for implementation: transparency reporting

- 2.16 Ofcom may only exercise its powers relating to transparency reporting once the register of categorised services has been published. Once the register has been published, Ofcom will have one year to issue the first transparency notices to categorised providers. We will endeavour to engage with providers once they have been categorised to ensure they understand their additional duties regarding transparency reporting. We will repeat this process at regular intervals when the register is updated, at which point services may be added or removed from the register. More information on this engagement process is included in our draft guidance.
- 2.17 The process for implementing the transparency regime is summarised in Figure 1 below. We are still at an early stage of this process. In March 2024, prior to the general election being called, we [published our advice](#) to Government on the thresholds for categorisation. We will begin work on establishing the register of categorised services once the new Government has determined the threshold conditions in legislation. We hope to be able to send the first transparency notices to relevant services in mid-2025. This timing depends on when Parliament passes legislation to confirm the thresholds for categorisation.
- 2.1 As soon as we have published our first register of categorised services, we will prepare and send transparency notices to those services. We anticipate that the relevant service providers will have between 2 and 6 months to produce their transparency reports in response to a notice. Timings will vary depending on factors such as the scope and nature of the information required by the notice and the capacity of the provider. We welcome any information in response to this consultation about the timings and internal processes involved in producing a transparency report.

Fig 1.



3. Draft guidance: exercising Ofcom's transparency powers to drive our aims for the online safety regime

- 3.1 Ofcom is required by the Act to produce guidance about transparency reporting covering:
- how we will determine which information we will require transparency reports to contain, including the principles we will apply in relation to the factors mentioned in paragraph 37 of Schedule 8 to the Act;
 - the steps we will take to engage with providers of relevant services before requiring information in a notice;
 - how information from such transparency reports will be used to produce Ofcom's transparency report; and
 - such other matters we consider relevant to production of transparency reports (whether by providers or by Ofcom).¹²
- 3.2 The draft guidance document covering these issues is published in Annex A.
- 3.3 The draft transparency guidance focuses on the process that we will undertake to meet our duties in the Act and what providers will be required to do to comply with their duties. In the guidance, we also set out the principles and factors we will take into account when considering our information requirements and how we plan to engage with providers to support the notice and reporting process.
- 3.4 Our guidance is informed by our understanding of the role that transparency reporting can play in the wider online safety regime. While our guidance principally outlines our approach for determining the information that providers should produce in their reports, here we set out that wider context, explaining how we think the use of our powers, as outlined in the guidance, will contribute to creating a safer life online for UK citizens.
- 3.5 To understand how transparency reporting fits into the wider context of the online safety regime, it is helpful to understand the key outcomes that Ofcom expects the overall implementation of the Act to achieve to ensure UK citizens are safer online. These four outcomes are: a) stronger safety **governance** in online services, b) online services are **designed** and operated with safety in mind, c) greater **choice** for users so they can have more meaningful control over their online experiences, and d) greater transparency regarding the safety measures services use, and the action Ofcom is taking to improve them, to build **trust**.
- 3.6 Our transparency powers complement our other regulatory tools and will be an important lever for helping us achieve our goals for the regime. Our use of transparency powers will

¹² See section 78 of the Act.

be driven by considering specifically how the public disclosure of information can achieve these four outcomes.

Driving positive outcomes through transparency reporting

- 3.7 Our guidance is informed by our understanding of the role that transparency reporting can play in the wider online safety regime. Our ambition is for transparency reporting to be a key source of information for the public, which will shine a light on services' safety performance and empower the public to make informed choices about the services they use. Here, we explain the different ways in which we envisage the publication of information can contribute to positive safety outcomes for UK users.
- 3.8 **First, transparency reporting can encourage services to improve their safety practices in a way that results in better safety outcomes for UK users on their service.** This contributes to two of the outcomes that we expect our implementation of the Act to achieve: (a) stronger safety governance in online services and (b) online services designed and operated with safety in mind.
- 3.9 Transparency requirements can lead providers of services to take measures to reduce harms stemming from their activities. We have seen some evidence of this in other sectors, but we are yet to see how these findings will translate to the online safety space.¹³ In many of these cases, companies respond to what they perceive to be legal, commercial, reputational, or physical risks generated by the public disclosure of information about their operations and their impact.
- 3.10 We will use the powers conferred on us by the Act to equip stakeholders in the online safety field, including industry, with new knowledge about services' practices. This will include both positive practices and areas for improvement, which will enable stakeholders to become aware of best practice and encourage safety improvements at services to benefit UK users.
- 3.11 For us to achieve these improvements through use of our transparency powers, we will seek to ensure that providers' transparency reports include information that can increase stakeholders' knowledge about individual services' safety activities and their outcomes. This knowledge can benefit different segments of the public by allowing Ofcom, users, researchers, civil society groups, advertisers, retail and institutional investors, shareholders,

¹³ We have analysed some evidence about the effects of various mandatory information disclosure requirements in different sectors; some of which shows there are impacts of information disclosures on reducing harms, and others which show little or no impact. It can be difficult to prove the impact of information disclosures on harm reduction as it is rarely the result of an isolated effect. Here, we have highlighted two studies which identified a relationship between mandatory information requirements and companies' harm reduction efforts. The impact of environmental disclosures on harm is one of the contexts which has received particular focus from transparency researchers. Shi et al. (2021) examine the impact of the 2008 Pollutant Information Transparency Index in China on firm emission levels and find that the environmental information disclosure obligation results in a significant reduction of firms' emissions. Sharkey and Bromley (2015) examine the indirect effects of ESG rating, finding that rated firms reduced pollution more as a greater share of their peers were rated. Johnson (2020) finds deterrence effects from the US Occupational Safety and Health Administration disclosing public information about firms found to have violated health and safety regulations. Other firms respond by substantially improving their health and safety compliance, resulting in fewer overall occupational injuries.

proxy agencies, journalists, and other stakeholders, to identify examples of good and poor safety practices at services. This range of stakeholders may each use the knowledge generated by transparency reports in different ways, but with a unified goal of advocating for users' safety and interests. For instance -

- a) **Civil society groups** may utilise information about services' specific systems and processes to better protect the citizens and users that they represent. For instance, by promoting best practice and creating resources to help industry implement changes to their systems and processes.
- b) **Researchers** may publish reports about the trends and insights derived from providers' reporting, in turn informing the media and political debate about such issues. Academia and media can act as a powerful mediator between transparency reports and the public, focusing in on key issues and topics that are important to be shared in the public interest.
- c) Those with **financial links to services**, such as advertisers, shareholders or investors, might use the information to assess the level of risk associated with their actions relating to individual services and take decisions on that basis. Advertisers may be able to make informed choices about where to deploy advertising budgets, investors may be able to make more informed choices about which companies to invest in, and tech sector employees might make more informed choices about which companies to work for.
- d) **Ofcom** will use the information in provider reports to publish its own reports, summarising insights from provider reporting. These are intended to inform users, parents, carers, civil society and the wider regulated online industry about good and poor safety practices. Ofcom might also identify areas for targeted engagement with services to drive improvements in practices or processes.

3.12 These kinds of stakeholder activities can affect service providers' understanding of the strengths and limitations of their current or potential safety practices. Stakeholders' actions can increase the perceived value or benefits of improved safety practices for companies, and as such can act as a motivating force for services to improve their safety practices.

3.13 **Second, transparency reporting can increase users' understanding of regulated services, enabling them to make informed choices about how they spend their time online.** This contributes to two of the outcomes that we expect our implementation of the Act to achieve: (c) greater choice for users so they can have more meaningful control over their online experiences, and (d) greater transparency regarding the safety measures services use, and the action Ofcom is taking to improve them, building trust. Below, we suggest how the publication of information via transparency reports for online safety could achieve this kind of change.

3.14 Service providers are required to publish information in their annual transparency reports. Ofcom will analyse this information, as well as other information available through its own and third-party research. Ofcom will publish one or multiple transparency reports each year to summarise the findings of this analysis. The reports will provide a view across the industry, presenting insights from individual service transparency reports side by side. This cross-industry analysis will enable some level of comparison of the different practices and processes that services are using to keep their users safe. The reports will also analyse, where possible, changes in the outputs and outcomes of safety practices over time.

- 3.15 Based on this analysis, Ofcom will present examples of good and poor practice in the industry, highlighting examples of effective safety practices, as well as gaps in services' efforts. More information on this process can be found in Chapter 5 of the draft guidance attached to this consultation.
- 3.16 Ofcom will undertake targeted communications activities to spread the key messages of our reports to relevant audiences, whether through social media, interviews, events, or targeted engagement with specific groups across the UK.
- 3.17 This will ensure that UK users of regulated services, as well as the parents or carers of young people who use those services, can have access to information about the safety performance of services through providers' reports and Ofcom's reports and associated publications. This will allow them to take evidence-based and informed decisions about which services to use (or to allow children to use) and the ways in which they want to use those services.
- 3.18 Journalists, civil society and other public-facing stakeholders may also choose to amplify the key messages from Ofcom's reports to the public, including those who use online services or whose children use online services, and in some cases take action on those insights. Journalists reach a broad range of audiences across the UK public and play a crucial role in translating technical insights to non-technical audiences. Civil society groups often represent specific communities or groups of people: they can communicate information relevant to those specific groups. This will support our efforts to ensure that all UK users can make informed choices about the services they use and use their own spheres of influence to drive improvements to services.

How we will use our transparency powers

Principles to determine what information we will require services to publish

- 3.19 In our guidance, we lay out the key principles of our approach to deciding what user-to-user information or search engine information services should publish. These principles will guide our consideration of what information is best placed to drive the change that we hope to see in online safety activities.
- 3.20 The key principles we have identified and discuss in our draft guidance include "relevance" and "appropriateness" to the service. We will tailor the information requirements for each type of service to ensure that they are relevant to the way in which a service is designed, used and operated. This will ensure that information is always useful and meaningful for the public. Where possible and relevant we may also identify information requirements that can provide standardised information for comparability purposes. Another key principle that we set out in the draft guidance is proportionality. We will always take steps to ensure that the requests for information in our notices go no further than is necessary to give effect to our policy objectives.
- 3.21 Our draft guidance details the factors we will consider and the process that we will undertake in determining the information we will require to be produced in providers' reports, and we welcome feedback on our proposals through this consultation. In considering various factors, we will always be guided by our key principles, set out above.

- 3.22 Whilst some of the factors we will consider are mandated by the Act, we have also proposed additional criteria as part of our process, including whether the service provider has already published the information and how different types of information will enable Ofcom to analyse trends across the industry and over time. First, therefore, we will consider what information might be most valuably reported over time, instead of at just one moment in time. We present this distinction as ‘core’ information - required consistently over time - and ‘thematic’ information - required on ad-hoc basis, either once or over a limited period ¹⁴.
- 3.23 Second, we will consider what information requirements might enable comparisons between services. In considering this, we will apply our principles of relevance, appropriateness and proportionality to ensure that information requirements are tailored to the specific service in question, while also enabling comparability across the industry where such opportunities for standardisation and consistency arise (fig 2.).
- 3.24 Our approach to these comparability factors is summarised in the table and expanded on below.

Fig 2.

	Core	Thematic
Comparable	Understanding patterns over time and across the industry	Understanding the approach that multiple services take to deal with a certain issue and the outcomes of those approaches
Bespoke	Understanding patterns on individual services over time	Understanding the approach that a specific service takes to deal with a certain issue and the outcomes of that approach

¹⁴ International transparency regimes are taking similar approaches to information frameworks demonstrating potential for future alignment and the development of standards in the field. Our ‘core’ and ‘thematic’ information framework draws parallels with the taken by the Australian eSafety Commissioner, which requires online providers to report on periodic and non-periodic information about how they are implementing the Basic Online Safety Expectations (‘the Expectations’) under the Australian Online Safety Act 201 (‘the Act’). Under section 49(2) of the Act, eSafety can issue periodic notices requiring providers to report at regular intervals on their compliance with the Expectations. Under section 56(2) of the Online Safety Act 2021 (the Act), eSafety can issue non-periodic reporting notices requiring online service providers to report on their compliance with the Expectations.

Core information requirements

- 3.25 One way in which users, Ofcom or other audiences can generate meaningful insights from transparency reports is to assess the same information points consistently over time. Our 'core' information requirements will enable us to compare key metrics of safety performance over time.
- 3.26 **Comparable** - In some cases, where information is relevant to lots of different services, Ofcom will be able to require that kind of information across the industry, helping us to identify patterns and trends across time and across services. We will consider the types of metrics that it may be possible to standardise across different types of services, while always considering the challenges and limits of directly comparing different datasets and measurement methodologies.
- 3.27 **Bespoke** - Where it is not possible to standardise metrics, we may require specific, 'bespoke' information to be reported over time by specific services or types of service. This would enable us to understand how individual services are performing over time and draw out trends and patterns about that service.

Thematic information requirements

- 3.28 Our 'thematic' information requirements will enable us to compare safety actions and performance in relation to a specific issue, topic or set of risks on an ad-hoc basis. These types of information are well-suited to topics where audiences can meaningfully learn something without the need to analyse changes over time.
- 3.29 **Comparable** - Comparable thematic information addresses how multiple services are tackling the same issue. We will consider the types of information that are appropriate to compare on a one-off basis or over a limited period. This may include qualitative descriptions of systems and processes and context about governance decisions, as well as quantitative metrics that are standardised across a group of services on a specific issue. These types of information will enable audiences to compare risk or safety measures across the industry and to highlight best and poor practice on a specific topic.
- 3.30 **Bespoke** - Thematic, bespoke information requirements are very targeted, both at a moment in time and for a specific service. They are well suited to issues that are relevant to only very particular types of service or functionality and where standardisation over time or across industry is not possible or meaningful.
- 3.31 In the table below (fig 3.), we set out some illustrative examples of information that might fit in each of these categories.

Fig 3.

	Core	Thematic
Comparable	This might include:	
	<ul style="list-style-type: none"> • Metrics designed to measure the prevalence, incidence or volume of harmful or illegal content on a service. • Metrics designed to measure the potential impact of such content on users' ongoing experiences of the service. • Together, these may contribute to an understanding of the risks posed by a service. 	<ul style="list-style-type: none"> • Qualitative information about the governance measures in place to deal with specific risks. • Metrics that provide a deep dive into the effectiveness of services' measures relating to on one specific area of risk at a moment in time.
	Illustrative examples:	
	<ul style="list-style-type: none"> • Standardised metrics that take a similar approach to other international jurisdictions', especially the EU. For instance, the current Digital Services Act transparency reporting requirements include measurement of the number of content removal actions taken by relevant services. <p>3.32 Information that takes a similar approach to the OECD's Voluntary Transparency Reporting Framework (VTRF), which aims to provide a common standard for a baseline level of transparency reporting about terrorist and violent extremist content (TVEC). The framework is intended for use by any online content-sharing service, regardless of its business model, size, reporting experience or approach to content moderation. For instance, services that meet certain criteria in the VTRF questionnaire are asked to provide data about the proportion of monthly active accounts which were actioned during the reporting period for violations of policies related to TVEC.¹⁵</p>	<p>3.33 Information of a kind similar to that published within Ofcom's 2022 Video-Sharing Platform ('VSP') Report, which covered the different approaches all relevant VSPs took to address a range of safety matters. For instance, information about governance structures.</p> <ul style="list-style-type: none"> • Information of a kind similar to that published in Ofcom's 2023 VSP Child Safety Report. In that case we presented data from various VSP services about how many under-age accounts the services had identified and removed between March 2022 and March 2023, taking into account the different ways services are designed and operated.¹⁷

¹⁵ [OECD Voluntary Transparency Reporting Framework \(VTRF\) for Terrorist and Violent Extremist Content \(TVEC\), V1., 2022.](#)

¹⁶ [Ofcom's first year of video-sharing platform regulation, 2022.](#)

¹⁷ [How video-sharing platforms protect children from encountering harmful videos, 2023.](#)

	Core	Thematic
Bespoke	This might include:	
	<ul style="list-style-type: none"> Metrics about the outcomes and efficacy of specific safety systems and processes on a given service. 	<ul style="list-style-type: none"> Information or data that measures the speed, nature and effectiveness of a single service’s response to a specific safety incident. Qualitative information about the governance processes in place to manage risks that are specific to that service.
	Illustrative examples:	
	<ul style="list-style-type: none"> Data about the accuracy rates of specific types of content classifiers that are relevant only to services that use automated content moderation systems. <p>3.34 Further examples include metrics that measure the outcome of different age assurance technologies used on services.</p>	<ul style="list-style-type: none"> The information published by Ofcom about the response of the regulated VSPs to the Buffalo shooting in 2022. This published report used information gathered from VSPs: the information varied based on the nature of the relevant content on their services during and following the Buffalo attack, and the different measures and processes that the services had in place at the time.

Engaging with stakeholders and experts to iterate and improve our transparency regime:

- 3.35 In order to understand what information is useful and meaningful to audiences of provider transparency reports, we will need to engage broadly across the regulated industry as well as with other experts. Engagement will help us to ensure that providers' transparency notices, and Ofcom's subsequent reporting, include relevant and meaningful information to support our efforts to drive improvements in industry safety practices and inform the public's understanding of online safety issues.
- 3.36 Our draft guidance sets out the process by which we will seek to engage with service providers specifically relating to the delivery of transparency notices and providers' transparency reports. However, as outlined at 3.7 where we discussed our approach to using our transparency powers to drive positive outcomes, we think that a variety of stakeholders are important for generating positive impact through the publication of transparency reports. We will therefore seek to engage broadly with experts as well as industry to ensure that we are delivering value through our regulatory responsibilities and learning lessons about the impact of transparency reports. This includes service providers, but also users themselves, civil society groups, researchers, journalists and groups that represent users.
- 3.37 **Why will we do this?** Civil society, academics, researchers and journalists can all play a role in making transparency reports more accessible and useful to UK users and in improving safety outcomes as a result. We will engage with non-industry stakeholders to explain our work on transparency, to build our evidence base about how transparency reporting can drive positive safety outcomes, to communicate Ofcom's own analysis of provider transparency reports, and to help us improve our process and approach for transparency reporting over time.
- 3.38 **How will we do this?** We have a variety of communication channels available for engaging with stakeholders. We will use different approaches depending on the aims of our engagement, whether that be seeking input from experts, explaining our work to those we are hoping to reach with information, or evaluating the impact of our transparency regime. These channels available to us for engaging with stakeholders include:
- a) Broadcast-style engagement: where we are seeking to inform stakeholders about key updates or milestones relating to our transparency regime, we can use newsletters, blogs or webinars.
 - b) Events: where we see value in bringing together a range of stakeholders to discuss or evaluate findings from service providers' transparency reports or Ofcom's own transparency reporting, we can host or attend seminars, conferences or roundtables.
 - c) Research, including commissioning specific research: where we want to build our evidence base about the effects of transparency reports, we can attend research conferences, engage directly with individual researchers to learn about their work, or seek to provide funding for specific research to support our evidence base for transparency policy.
 - d) Bringing in users' voices and perspectives: where we want to understand how transparency can affect users' behaviours and experiences online, we can undertake or support research about users' own experiences, as well as undertaking dedicated engagement with civil society groups that represent people with lived experience of online harms.

- 3.39 **International engagement:** Increasingly, governments and regulators around the world are exploring the potential utility of mandatory transparency from online services to support safety goals. International civil society groups are also spearheading various global initiatives that seek to leverage transparency in the service of online safety or accountability.¹⁸ In developing our transparency regime, we have taken note of a variety of legislative frameworks, including the EU’s Digital Services Act (2022), Australia’s Online Safety Act (2021) and Singapore’s Online Safety (Miscellaneous Amendments) Act (2023), and the lessons gleaned from their implementation experience. We will engage with international experts and regulators where possible to learn from parallel transparency efforts, to seek alignment in processes and approaches where feasible and useful, and to communicate our own insights from providers’ and Ofcom’s transparency reports.
- 3.40 We will also seek to collaborate internationally to support the development of standards for measurement of online safety matters across jurisdictions in our efforts to provide consistent and comparable data that is useful for stakeholders. We will make use of channels such as The Global Online Safety Regulators Network (‘the Network’), which launched in 2022 and is the first dedicated forum for independent online safety regulators around the world.¹⁹ The Network aims to provide regulators with a space to share experience, expertise and evidence and to pave the way for coherent international approaches to online safety regulation. The Network identified transparency reporting as one of the areas to pursue for future international coherence in its position statement on regulatory coherence published in May 2024.²⁰
- 3.41 We may also draw on industry standards from other sectors. There are a number of standards organisations working to create consistent and comparable data that would allow investors to make more informed decisions about companies’ performance, particularly on Environmental Social and Governance (ESG) issues.²¹ Many of the standards and benchmarks in other sectors have been shaped by legislation around transparency and corporate reporting, particularly in the EU. We can expect that online safety legislation will similarly influence the growing development of standards in the digital safety field.²²
- 3.42 Measuring digital safety across the industry is a complex process, but there is an emerging body of work that seeks to build standards and consistency in relevant metrics and terminology. This includes a number of useful taxonomies that identify key elements of safety performance that might be usefully measured and reported. Ofcom contributed to a

¹⁸ The World Economic Forum recently published a paper: [How to measure digital safety effectively to reduce risks online](#), which Ofcom co-chaired and includes discussions on the pivotal role transparency efforts play in promoting trust and accountability in the digital space, 2024, p7.

¹⁹ [Global Online Safety Regulators Network - Ofcom](#).

²⁰ The Network’s [position statement](#) (May 2024) on regulatory coherence articulates its shared commitment to regulatory coherence and coordination – why we are prioritising it and the opportunity costs of not doing so. It outlines the policy areas where we will focus on and the levers that we will use to guide us in this work. Transparency reporting was identified as one of such policy areas of focus.

²¹ The Sustainable Accounting Standards Board (SASB) develops industry-specific corporate reporting standards for issues most relevant to financial performance. They have also been developing a project on content moderation on internet platforms with a view toward future standard setting.

²² The Organisation for Economic Co-operation and Development (OECD) has developed a voluntary transparency reporting framework (VTRF) for terrorist and violent extremist content online (TVEC), in a multistakeholder process in which Ofcom was involved. This framework aims to provide a common standard for a baseline level of transparency reporting on TVEC. The VTRF was designed for use by any online content-sharing service, regardless of its business model, size, reporting experience or approach to content moderation.

paper on measuring digital safety published by the World Economic Forum (June 2024), which proposes grouping metrics into three categories: “Impact”, “Risk” and “Process”.²³ We also published a paper on evaluating online safety measures (May 2024), which sets out how a widely used evaluation framework could be applied to assess the impact and effectiveness of online safety measures. We will draw on existing frameworks in the industry including the World Economic Forum’s, Ofcom’s, and other industry frameworks as we seek to develop an approach that is tailored to Ofcom’s transparency powers and will help us interpret the matters listed in Schedule 8.²⁴ This will help us to identify the types of information that we will standardise as “core” information requirements and aid comparability across the industry.

Iterating our approach

- 3.43 We recognise that it is difficult to measure the effectiveness of transparency reporting in affecting behaviour change in entities or individuals. There are many challenges in empirically studying how transparency disclosures affect the behaviour of companies or their consumers, or the unintended effects of those disclosures. As part of our work to develop our draft transparency guidance, we examined literature about the effects of transparency reporting at companies in both the online sector and other industries, including examples from various global water safety, chemical safety, corporate social responsibility and environmental reporting regimes. As regulation for online services is still in its infancy, there is little empirical evidence on the effectiveness of transparency in the digital space.
- 3.44 Evidence from the range of other industries that we analysed indicates that the effects of transparency can take time to be realised and may be better understood when measured over time.²⁵ In many cases, transparency reporting may be one of a set of contributing factors that drives behaviour change. However, with online safety regulation still in its infancy, we expect that more empirical evidence on the effectiveness and wider effects of transparency reporting in this field will emerge in due course.
- 3.45 We will explore how we can best measure the impact of our transparency regime, including any unintended effects, and will seek to engage with users, industry, civil society, researchers, and other experts to do so. This work will help us to understand how transparency reports are used, by whom and with what effects and to assess the effectiveness of our guidance in helping us to deliver on our duties under the Act.

²³ World Economic Forum: [How to measure digital safety effectively to reduce risks online](#), 2024. Ofcom staff contributed to the writing of this report through Ofcom Online Safety Group Director, Gill Whitehead and co-author of the report, Collin Kurre.

²⁴ Ofcom published a paper in May 2024: [Evaluating online safety measures](#), where we set out how a widely used evaluation framework could be applied to assess the impact and effectiveness of online safety measures. The report also includes an illustrative example of what such an evaluation might look like in practice.

²⁵ Literature suggests that compliance tends to increase over time, meaning short-term evaluations of the effectiveness of transparency may be less indicative as firms take time to adjust and normalise transparency compliance. For instance, Chauvey et al. (2015) find that the quality of the information provided in reports increased when comparing firms 2010 CSR disclosures with those made in 2004.

4. Where we are seeking input

- 4.1 We welcome views on the questions below in response to the draft guidance contained in Annex A. It is not necessary to answer every question – please answer those on which you have a view.
- 4.2 Please see Section 6 for more information about how to respond to our consultation. When we have reviewed responses to this consultation, we will publish our final decisions in a Statement alongside the final version of the transparency guidance.
- 4.3 We are particularly seeking input on the areas listed below. We encourage stakeholders to respond with feedback so that we can ensure that the guidance helps providers and other stakeholders understand:
- a) Ofcom’s powers and providers’ duties for transparency reporting, as well as Ofcom’s approach to implementing the transparency regime;
 - b) Ofcom’s approach for determining what information service providers should produce in their transparency reports;
 - c) Ofcom’s plans to engage with providers prior to issuing transparency notices, and on what matters, and whether the proposed engagement plan will be sufficient for helping services to comply with their duties;
 - d) Ofcom’s plans to use the information in providers’ transparency reports in Ofcom’s own transparency reports.

Are there any aspects in the draft guidance where it would be helpful for additional detail or clarity to be provided?

Are the suggested engagement activities set out in the draft guidance sufficient for providers to understand their duties and Ofcom’s expectations?

- 4.4 We are also seeking input that will help us understand if there are other matters that Ofcom should consider in our approach to determining the notices, beyond those that we set out in the guidance. The questions below seek input about any additional factors Ofcom should take into account in various stages of the process, including: to inform the content of transparency notices; in determining the format of providers’ transparency reports; and how the capacity of a provider can be best determined and evidenced.

Are there any other factors that Ofcom might consider in our approach to determining the contents of notices that are not set out in the draft guidance?

Is there anything that Ofcom should have regard to (other than the factors discussed in the draft guidance) that may be relevant to the production of provider transparency reports? This might include factors that we should consider when deciding how much time to give providers to publish their transparency reports.

What are the anticipated dependencies for producing transparency reports including in relation to any internal administrative processes and governance which may affect the timelines for producing reports?

What information would be most useful for Ofcom to consider when assessing a provider’s “capacity”, by which we mean, the financial resources of the provider, and

the level of technical expertise which is available to the service provider given its size and financial resources?²⁶

Are there any matters within Schedule 8, Parts 1 and 2 of Act that may pose risks relating to confidentiality or commercial sensitivity as regards service providers, services or service users if published?

- 4.5 Finally, we are also seeking input into any matter that may be helpful for ensuring Ofcom's transparency reports are useful and accessible.

Beyond the requirements of the Act, are there any forms of insight that it would be useful for Ofcom to include in our own transparency reports? Why would that information be useful and how could you or a third party use it?

Do you have any comment on the most useful format(s) of services' transparency reports or Ofcom's transparency reports? How can Ofcom ensure that its own transparency reports are accessible? Provide specific evidence, if possible, of which formats are particularly effective for which audiences.

²⁶ Section 236 of the Act

A1. Impact assessments

Impact assessment – Background

- A1.1 As a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to our policy decisions, although the form of that assessment will depend on the particular nature of the proposal.
- A1.2 Our draft guidance on transparency is intended to help people and the sector understand what the duties and powers are for both Ofcom and relevant providers, how these duties should be fulfilled, the aims of the transparency reporting regime, how we might exercise our powers to fulfil our duties and meet such aims, and the potential consequences of providers’ non-compliance.
- A1.3 In our impact assessment (see A1.5 – A1.18), we have considered the costs, benefits and risks of our proposals. We have determined that the majority of our proposals do not impose any significant burdens service providers or any other stakeholders. This is because our proposals mainly outline the principles and aims that will guide Ofcom’s approach to exercising its statutory powers in relation to transparency reporting.
- A1.4 We have considered a minor impact from our draft notice process that forms part of the engagement process. However, we consider any such impact to be justified and proportionate, because of the benefits it will deliver to service providers in being able to address any relevant queries to Ofcom through representations and the ability to plan the preparation of their transparency report before Ofcom issues the final notice. As such, this guidance should not impose any disproportionate burdens on service providers outside their statutory duties.

Assessing the impact of our draft transparency guidance

- A1.5 Impact assessments provide a valuable way of assessing the options for regulation and showing why the chosen option(s) was preferred. They form part of best practice policy making. As a matter of policy, Ofcom is committed to carrying out impact assessments in the large majority of our policy decisions and has discretion as to the substance and form of an impact assessment. Our impact assessment guidance sets out our general approach to how we assess and present the impact of our proposed decisions.
- A1.6 Our draft guidance on transparency reporting aims to outline our proposed approach to exercising our statutory powers in relation to transparency reporting and aims to help service providers understand how to meet their statutory duties. Specifically, the draft guidance will set out how Ofcom will determine what information providers should produce in their transparency reports and how Ofcom will approach producing its own transparency report on an annual basis.
- A1.7 We have assessed the impact of our draft guidance on service providers and other relevant stakeholders. We have particularly focused on, where possible, the costs, benefits and risks of our proposals. We have not considered the impacts of the duties that service providers

are under statutory obligation to comply with, as these have already been assessed prior to being passed into legislation.

- A1.8 The proposals we have assessed are the principles we will apply when determining what information should be produced in a transparency report; the engagement process we will offer to providers to help determine what information should be produced in a transparency report; the approach we will take to produce our Ofcom transparency report; and the approach to compliance with the relevant transparency duties.
- A1.9 We have determined that the majority of our proposals do not impose any significant burdens on service providers or any other third parties. Our key proposals set out principles and aims which will guide the exercise of our statutory functions. For example, in determining what information should be produced in a transparency report, we explain how we will apply the principles of relevance, appropriateness and proportionality, when considering relevant statutory factors under schedule 8 of the Online Safety Act 2023. This proposal on the principles we shall consider, does not itself impose any burden on any party and only sets out our principles approach to exercising our transparency functions. Our proposals for how Ofcom will produce its own transparency reports set out the aims, which will guide the production of Ofcom reports and do not impose any duties or requirements on any stakeholders. Additionally, our proposals around compliance mirror the general online safety policy approach to enforcement, which has already been assessed separately in Ofcom’s Online Safety Illegal Harms consultation¹.
- A1.10 In our assessment, we have identified one impact on service providers, deriving from our proposal to offer engagement to service providers through a draft notice process. In this process, service providers will be invited to make representations on a draft transparency notice. We consider that should a service provider wish to make representations, our approach may require them to employ additional resources to participate in engagement, to review, analyse, and respond to draft notices. We have assessed this to be proportionate and justified, due to the benefits it confers on all service providers who are offered engagement. In particular, we consider that it provides an opportunity for service providers to obtain further information about Ofcom’s proposed information requirements and allows them to begin planning for the production of their report before the final transparency notices is issued. Additionally, the draft notice process is optional for service providers to participate in, so they can choose whether to deploy their resources where this is relevant to their ability to respond to the final transparency notices.
- A1.11 We have also considered the impact on any human rights and have determined that there are no substantial impacts in this respect.

Impacts on service providers

- A1.12 Ofcom will endeavour to engage with relevant service providers during each transparency reporting cycle, as part of its process to determine what information we will set out in the transparency notice to be produced in the transparency reports. We aim for the draft notice process to be a consistent, annual method of engagement with service providers. We intend to send a draft notice to service providers, which will set out our proposals for the information we want produced in the final report, the format it should be produced in, and the proposed timings for the production and publication of the report.

Costs and risks

- A1.13 We anticipate that service providers who engage with Ofcom will face minimal costs from reviewing the guidance itself given its short and non-technical nature.
- A1.14 We acknowledge that our proposed engagement through the draft notice process may require service providers to obtain additional resources to review, analyse and respond to the draft notices. Additional staff or more time from current staff may be needed to deal with this regulatory process on an annual basis.
- A1.15 The costs and impact of our proposed guidance may vary, subject to the type of business. Higher initial set up costs may be needed by service providers that are not experienced with being regulated, as opposed to businesses that already have dedicated regulatory resources that they can build on. As detailed below, we believe this potential impact is justified and proportionate because of the benefits to service providers obtained through engaging in the draft notice process.

Benefits

- A1.16 The draft notice process is optional for service providers to engage in and offers the opportunity to comment on and make representations on the proposed information requirements before it is finalised. This will give service providers flexibility as to the level of engagement and resource they apply in relation to the draft notice process. This may be particularly helpful to service providers who may be newly regulated or have unique circumstances to consider in the production of a report. We anticipate that these types of service providers will benefit from an opportunity to consider the proposed information requirements and then seek additional information from Ofcom where needed.
- A1.17 Additionally, the draft notice process will give service providers the opportunity to plan ahead, allocate resources and evaluate any costs of producing such information prior to receiving a transparency notice. Furthermore, we consider any potential impact would be justified by contributing to the fairness of Ofcom's decision-making process, as it allows service providers make representations before a final decision is taken, which Ofcom will have regard to.

Conclusion

- A1.18 We have assessed the potential impacts from our draft transparency guidance on service providers and relevant stakeholders and have determined there to be no significant impacts on either of them. We have identified a potential impact on some service provider's resources through our proposed draft notice process. However, we consider the impact to be justified and proportionate, because of the benefits the draft notice process gives to service providers in planning the production of transparency reports and providing the opportunity to address any relevant queries to Ofcom. Additionally, the draft notice process contributes to the fairness and proportionality of the decision-making process carried out by Ofcom in the exercise of its statutory functions. Therefore, on balance we consider the benefits of the draft notice process to outweigh any potential impact on service providers' resources.

Equality impact assessment

- A1.19 Ofcom has statutory obligations which require us to consider the impact on specific groups of persons when formulating policy proposals. These are:
- our public sector equality duties under section 149 of the Equality Act 2010 (the ‘Equality Act’) and section 75 of the Northern Ireland Act 1998 (the ‘NI Act’) including potential impacts on the groups of persons identified in those sections as having protected characteristics; and
 - potential impacts on the needs and interests of groups of persons identified in section 3(4) of the Communications Act.
- A1.20 We do not consider that our proposals will in themselves have any equality impacts, as our proposed guidance seeks to outline the steps that Ofcom will take to implement the transparency regime. The proposed guidance does not seek to impose transparency notices in of itself, but rather aims to provide stakeholders with an understanding of how Ofcom will carry out its duties.
- A1.21 However, we note that our proposals provide us the flexibility to request the production of information in transparency reports that highlights how services are taking steps to implement and maintain safety measures which directly benefit persons with protected characteristics. We think civil society stakeholders who represent interests of persons with protected characteristics will also draw value from understanding our approach, so they can better engage with information that is produced in reports.

Welsh language

- A1.22 The Welsh Language (Wales) Measure 2011 made the Welsh language an officially recognised language in Wales. This legislation also led to the establishment of the office of the Welsh Language Commissioner who regulates and monitors our work. Ofcom is required to take Welsh language considerations into account when formulating, reviewing or revising policies which are relevant to Wales (including proposals which are not targeted at Wales specifically but are of interest across the UK).
- A1.23 Where the Welsh Language Standards are engaged, we consider the potential impact of a policy proposal on (i) opportunities for persons to use the Welsh language; and (ii) treating the Welsh language no less favourably than the English language. We also consider how a proposal could be formulated so as to have, or increase, a positive impact, or not to have adverse effects or to decrease any adverse effects.
- A1.24 We do not consider our guidance will affect opportunities for the use of Welsh or treat the Welsh language less favourably than the English language.

A2. Responding to this consultation

How to respond

- A2.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 4 October 2024.
- A2.2 You can [download a response form here](#). You can return this by email or post to the address provided in the response form.
- A2.3 If your response is a large file, or has supporting charts, tables or other data, please email it to OS-Transparency@Ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet. This email address is for this consultation only and will not be valid after 4 October 2024.
- A2.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Ofcom Online Safety Group
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A2.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- > send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
 - > upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A2.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A2.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A2.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A2.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed in section 4 of this document. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A2.10 If you want to discuss the issues and questions raised in this consultation, please send an email to OS-Transparency@Ofcom.org.uk.

Confidentiality

- A2.11 Consultations are more effective if we publish the responses before the consultation period closes. This can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on the Ofcom website at regular intervals during and after the consultation period.
- A2.12 If you think your response should be kept confidential, please specify which part(s) this applies to and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A2.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A2.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website.
- A2.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our Terms of Use.

Next steps

- A2.16 Following this consultation period, Ofcom plans to publish a statement in early 2025.
- A2.17 If you wish, you can register to receive mail updates alerting you to new Ofcom publications.

Ofcom's consultation processes

- A2.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex A3.
- A2.19 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A2.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A3. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A3.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A3.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A3.3 We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
- A3.4 When setting the length of the consultation period, we will consider the nature of our proposals and their potential impact. We will always make clear the closing date for responses.
- A3.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A3.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A3.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A4. Consultation coversheet

Basic details

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

Confidentiality

Please tick below what part of your response you consider is confidential, giving your reasons why

- > Nothing
- > Name/contact details/job title
- > Whole response
- > Organisation
- > Part of the response

If you selected 'Part of the response', please specify which parts:

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes No

Declaration

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the consultation period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)