

| Question                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Your response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p><b>We welcome input from industry 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:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>A) Ofcom's powers and providers' duties for transparency reporting, as well as Ofcom's approach to implementing the transparency regime.</p> <p>B) Ofcom's approach for determining what information service providers should produce in their transparency reports.</p> <p>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.</p> <p>D) Ofcom's plans to use the information in providers' transparency reports in Ofcom's own transparency reports.</p> | <p>A) We support the general aims of transparency reporting overall, believing that this is one strand to holding service providers to account in fulfilling their obligations under the Online Safety Act 2023. Transparency reporting should alleviate internal "dark" processes/details within services, provided that Ofcom exercises full use of its powers under the act. We welcome the commitment to disseminate transparency information to the public, including the outline of patterns and trends which may present risk/realised harm to users (para 2.12, p5, Guidance document). We note that Ofcom wish to engage with stakeholders and experts in this field (paras 3.36-3.38, p15, Guidance document). We wish to make ourselves available for this engagement. We are a leading charity seeking to combat Technology Assisted Child Sexual Abuse (TACSA). We work directly with victims and survivors and lead advocacy and research efforts in this area. We are very willing to offer our expertise to Ofcom and provide an evidence-base to assist Ofcom in ensuring that transparency reporting is robust and effective.</p> <p>B) We note that Ofcom intend to use 6 factors to determine what information they will seek in a transparency report (pp8-9, Annex A, draft transparency guidance. Although we appreciate that these factors will be weighted to some extent, depending on the categorisation of the service, as a charity committed to tackling Technology Assisted Child Sexual Abuse (TACSA), we would urge Ofcom to prioritise factor f: the proportion of users of the service who are children. Ofcom state that no factor will take precedence (para</p> |

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|  | <p>3.13, p9), but we recommend that factor f is given priority due to the prevalence of TACSA. Ofcom should also make clear in the guidance what proportion of child/adolescent users would activate a higher weighting of this factor. We recommend that this factor should be applied along with an analysis of general risk profiles of the service, as discussed in para 3.14 of Annex A. Where risk of TACSA is noted within the risk profile and there are child users of the service, the transparency requirements must be more demanding on the service provider, to ensure they are demonstrating clearly to Ofcom the real or potential harms that ensue from children using their service. In turn, this information should be made available to the public, via Ofcom's yearly report.</p> <p>C) We have some reservations around pre-notice engagement. While we recognise that Ofcom believes this may enhance the overall quality of reporting by services, we have concerns that services may seek to interrupt, deflect or minimise the information sought and communicated via the draft transparency notice. (We also expressed a similar concern in the information-gathering consultation). We are worried that service providers may use this advance notice to redirect the purpose of the transparency notice. It would be helpful for Ofcom to outline how they plan to avoid.</p> <p>D) We agree with the overall aim of the production of Ofcom's primary annual transparency report, as a means to highlight and report on transparency issues arising in regulated services in that year, and as a mechanism to highlight any emerging trends or issues that may be addressed in the following year's transparency cycle. For this parent-report to be effective, Ofcom must utilise effective communication strategies to disseminate the information, at stakeholder level – including the general public, and civil society organisations. Various strategies should</p> |
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|                                                                                                                                                            | <p>be used to ensure the information reaches those it is intended for and Ofcom should keep this under review and seek to modify communications to achieve maximum effectiveness.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>Are there any aspects in the draft guidance where it would be helpful for additional detail or clarity to be provided?</p>                              | <p>We feel the guidance document needs to more clearly stipulate that children and young people are also entitled to receive transparency information, as service users. Para 3.17, p10, does not make specific reference to children and young people being offered transparency information, so that they too can consider whether to continue using a service or not. Their parents and carers are named as transparency information recipients, but we would recommend this guidance is amended to clearly reflect that children and young people should also be receiving information, in order to make an informed choice about which services to use. This aligns with the right to information under Article 13 of the United Nations Convention on the Rights of the Child (1989), which the UK has ratified and indirectly incorporated into domestic law. We would also ask Ofcom to provide more detail about how they plan to communicate this information in a broad and accessible way to children and young people specifically, rather than the general outline under para 3.16, p10 of the guidance document.</p> |
| <p>Are the suggested engagement activities set out in the draft guidance sufficient for providers to understand their duties and Ofcom's expectations?</p> | <p>We feel the information for providers is clear but we have concerns about aspects of such engagement. Although we understand Ofcom's desire to engage early and regularly with services providers as part of the entire transparency reporting process (Annex A, pp13-15), we believe that issuing draft notices could be problematic, allowing service users too much notice of what Ofcom is seeking from them and with too generous a timeframe. This might permit services to underrepresent issues within their final transparency report, to avoid penalties.</p> <p>We are especially concerned by para 4.10, p14, which allows services to make written representations to Ofcom about what Ofcom</p>                                                                                                                                                                                                                                                                                                                                                                                                                    |

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|  | are seeking from them in a transparency report. This amounts to the ability to challenge Ofcom and potentially redirect Ofcom from the information they have deemed necessary for the service to include in the report. This valve affords services too much power to dispute what they must submit and we believe this should be removed entirely, as it effectively stifles Ofcom's powers and undermines the transparency process. |
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| Question                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Your response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| <b>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.</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 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?                                                                                                                                                                                                                                                                                                                                                                                    | We believe the core and thematic requirements are well-explained, justified and will be very useful for Ofcom, plus users – if these elements are fully reflected in Ofcom's transparency report. We fully support the need to engage with stakeholders more broadly to determine what other areas should be included in transparency reports, year on year. As noted in the guidance, this should be both a proactive and iterative (p16, Guidance document) approach. Ofcom must use the yearly provider data to isolate areas for future transparency requirements, as well as key data and evidence from key stakeholders noted in paras 3.37-3.39, pp15-16, Guidance document. |
| 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.                                                                                                                                                                                                                | We believe the timeframe for producing reports should be set clearly in advance, on a sliding scale, dependent on size of the service. Larger providers should be afforded more time than small services, but Ofcom should publish these timeframes clearly, rather than an overly flexible, case-by-case determination. We also believe that Ofcom should monitor services who fail to submit their reports on time and include in this data in Ofcom's annual transparency report. Generating this list would allow users to understand which services are                                                                                                                        |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | undertaking their duties seriously and effectively. We also believe this should include those services which request extensions to the time period (para 4.12, p15, Annex A).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 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? | While we recognise that service providers' capacities will vary, depending on the nature of the service, users and internal capacity and finances, we also believe that capacity should not limit what information Ofcom seeks within its notice to providers, particularly where it meets Ofcom's own criteria of relevance, appropriateness and proportionality (para 3.20, p10, Annex A). Where these thresholds are met, Ofcom must pursue the information, regardless of capacity of the provider. The obligation to fulfil this duty is borne by the provider and must be enforced appropriately by Ofcom.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 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?                                                                                                                                                                                                                                                                                       | We believe that Schedule 8, Parts 1 and 2 of the Online Safety Act (and as summarised in Annex A, pp22-24) are reasonably comprehensive and form a solid basis for the request for information within a transparency report, both for user-to-user services and search providers. While we appreciate that confidentiality and commercial sensitivity will represent concerns for providers, we do not feel the focus on risks to services is correct. Where services and their functionalities activate any of Parts 1 and 2 of the Act, Ofcom should pursue detailed transparency notifications from those services, especially as this pertains to risks of illegal or harmful content to children and young people. This is not to suggest that confidential material about individual children should be shared without appropriate anonymisation, (and indeed, data protection principles must be appropriately adhered to by Ofcom and the provider), but rather that services should not be shielded from offering a fulsome transparency report by unfair or undue reliance on confidentiality or commercial sensitivity. Ofcom must prioritise the protection of children and young people in the execution of their transparency powers, above the use of |

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|  | any confidential or commercial sensitivity arguments that industry may assert. |
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| Question                                                                                                                                                                                                                                                                                                | Your response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <b>Finally, we are also seeking input into any matter that may be helpful for ensuring Ofcom's transparency reports are useful and accessible.</b>                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 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?                                                                        | We are not aware of anything relevant at this time, but we encourage Ofcom to monitor this area so that they can enlarge their own reporting, based on available data, both from services' annual reports, as well as the wider arena around online safety, including academic research and victim and survivor voice.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 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. | <p>Good accessibility to Ofcom's annual report should include online access and good comms around its release, so that the report is widely and easily available. Ofcom should also pursue some targeted-media interest each year.</p> <p>Children and young people should be considered properly in the development of suitable child-friendly materials, in keeping with a Child Rights Impact Assessment lens. Infographics and shorter documents should be used to communicate key ideas and themes from the transparency reports to all children. It should also be suitable for children with SEND to comprehend. Ofcom should approach the Commissioner for Children in each of the four UK nations to maximise visibility of the report and to work with the Commissioners in using their platforms to push out the transparency report to children, young people and their parents.</p> <p>We note that Ofcom state they are keen to engage with victims and survivors of illegal content and online harms (para 3.38, d, p15, Guidance document). To fulfil that goal, Ofcom's should also consider ways to ensure their annual transparency report reflects this engagement fully and the report is presented in a way which is accessible, informative and</p> |

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|  | understandable by those with Lived Experience of such harms. The report should be sufficiently detailed so that victims and survivors can clearly see the information Ofcom has gathered, how this will be used to improve services and reduce overall risk online. |
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| Question                                               | Your response       |
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| <b>Please provide any other comments you may have.</b> |                     |
| General comments                                       | Confidential? – Y/N |

Please complete this form in full and return to [OS-Transparency@Ofcom.org.uk](mailto:OS-Transparency@Ofcom.org.uk)