

Question	Your response
<p>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:</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>techUK suggests incorporating flexibility for providers to tailor their reports according to the specific risks and user demographics they address. This flexibility would enhance the relevance and usefulness of the reports while still adhering to the core requirements.</p> <p>There is also a need for flexibility in reporting windows and methodologies as the law applies to a wide range of intermediary service providers who will vary in size, business models and organizational structure, meaning that a one size fits all approach will not work in practice. If timelines to comply with harmonized reporting periods are too short, it will impact on the ability of some providers to comply in a meaningful way as the data collection periods may be too compressed. In the context of guidance, while some level of guidance may be helpful, overly prescriptive requirements on methodologies required to calculate transparency report fields will not be readily applicable to a broad range of providers and may force providers to artificially comply with methodologies that don't accurately reflect their content moderation practices. There should be leeway in how providers can calculate the metrics so that the information surfaced meets the spirit of transparency without unnecessary prescriptiveness.</p> <p>Overall, additional detail on how Ofcom will handle variations in the size and capacity of providers when assessing compliance would also be helpful. Clear examples of acceptable practices for</p>

	<p>different types of providers would ensure more consistent implementation.</p> <p>Services, particularly smaller services with fewer resources, will need to know what information is expected, so they can plan accordingly. We strongly urge Ofcom to keep requests for “thematic” content as an exception, to be asked for only in exceptional circumstances - otherwise smaller services will not be able to meet the deadlines proposed.</p> <p>On deadlines, the 2-4 month timeline is likely to be insufficient to effectively gather complete and adequate data. Especially, if the data categories that are being requested do not align with existing data request requirements, under other regimes such as the EU’s Digital Services Act.</p> <p>Consideration of international regulatory developments would ensure alignment and reduce the burden on global service providers.</p> <p>Further, the consultation materials indicate that Ofcom is approaching transparency report requirements on a case-by-case basis, with the approach for each service subject to change on a yearly basis. This creates limited certainty, even for services in the same industry. Services are less likely to be able to effectively prepare internal data collection and reporting processes in advance as the information expected will vary, making compliance more challenging and inconsistent. This is especially so if services are requested to provide new historic data sets which they were not aware they would need to collect and retain. There is also a concern that lack of certainty in advance could lead to Ofcom exercising their discretion to decide that publication of commercially sensitive information is required, such as proprietary algorithms, content moderation processes, and other trade secrets, which could undermine a service’s competitive advantage and innovation efforts. Ofcom needs to be mindful of the risk of disclosing publicly</p>
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	commercially sensitive information.
Are there any aspects in the draft guidance where it would be helpful for additional detail or clarity to be provided?	N/A
	N/A

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<p>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.</p>	
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?	N/A
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.	<p>Timeframes for producing transparency reports are currently insufficient. Some services will need several months to gather the relevant data, particularly when being requested to gather information that they do not usually track or for "thematic" information that would change over time.</p> <p>This will be an issue for all services but particularly smaller services and the process should account for the internal administrative processes, governance</p>

	<p>structures, and resource availability of different providers. techUK recommends that Ofcom provides a flexible timeline for smaller providers or those with limited resources to ensure compliance without undue strain.</p> <p>Without knowing when a transparency notice will be served or how long a service will have to respond, services are unable to plan and prioritise resource for reporting. A too short timeframe, or inconsistencies in timeframe from reporting period to reporting period, could put pressure on services to complete transparency reports that compromise the quality and accuracy of the data collected, leading to inconsistencies which could compromise Ofcom's yearly transparency report.</p> <p>The approach taken in Ofcom's guidance around content and timelines for transparency reporting is also inconsistent with comparable law such as the Digital Services Act where set timeframes are given and the content of transparency reports are clearly prescribed. There is also a need to balance reporting requirements against privacy principles. If services are not aware in advance of information they are going to be required to collect and provide, services may need to collect additional data points on the basis of assumed potential future regulatory requests. This may lead to breaches of privacy principles, such as data minimisation and purpose limitation, as well as creating an undue compliance burden.</p>
<p>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</p>	<p>Key dependencies include the availability of accurate data, internal audit processes, and the involvement of legal and compliance teams. Providers may require additional time during initial implementation phases to establish these processes, particularly if they need</p>

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?	to integrate new reporting tools or systems.
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?	<p>Some techuk members believe that Schedule 8, Parts 1 and 2 does increase risks relating to confidentiality and commercial sensitivity. This may include sharing of commercial sensitive material (such as how companies design their processes) and/or information that could lead bad actors to potentially game their systems. (For example, in regards to information related to cooperation with law enforcement and processes to identify harmful content).</p> <p>This risk could conflict with confidentiality or other obligations services have in other countries, for example with law enforcement requests in other jurisdictions.</p>

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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?	<p>techUK recommends that Ofcom includes insights on emerging trends and risks in its transparency reports. This information would be valuable for providers to anticipate future challenges and adapt their services accordingly.</p> <p>Further, when Ofcom publishes their Transparency Report, they will be able to comment on the gaps in services'</p>

	<p>systems and processes. There appears to be no opportunity for services to (i) engage with Ofcom to determine if the information provided in their transparency report meets expectation; and (ii) provide feedback on sections of Ofcom's transparency report that pertain to their service. This could result in misrepresentations in Ofcom's report, particularly if Ofcom supplements the service provider's reported information with information from other sources which the service provider has not had the opportunity to comment on.</p>
<p>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>	N/A

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<p>Please provide any other comments you may have.</p>	
<p>General comments</p>	<p>techUK appreciates the opportunity to contribute to this consultation. We support Ofcom's efforts to enhance transparency in the online safety regime and believe that the proposed guidance will provide a solid foundation for achieving this goal. Ongoing collaboration between Ofcom, industry, and other stakeholders will be crucial in refining and implementing these guidelines effectively.</p>

Please complete this form in full and return to OS-Transparency@Ofcom.org.uk