

Question	Your response
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:	
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.	Confidential? – N A) Ofcom is requiring categorised services to assemble and release a separate 12-month transparency report each year, off-cycle from pre-existing twice-annual transparency report schedules and with a broader scope than our voluntary reports. While Ofcom acknowledges that they will consider whether the requested information has already been provided or published by the service in their voluntary transparency reports and will take note of published reports required under other regulatory regimes, there is no indication that Ofcom will accept a service's voluntary transparency reports to satisfy the transparency notice requirements. In other words, it seems that every service will be required to provide a new and separate 12-month transparency report each year, even if the "core" information required is already present in the voluntary reports. Failure to produce such a report would potentially result in enforcement action and penalization by Ofcom. It would be more practical if Ofcom were to accept a service's regularly published transparency reports in lieu of producing a separate 12-month report, and only require services to submit separate

	responses to provide required information that is outside the scope. B) As noted in 3.10 of Annex A, Ofcom wants to ensure that the information they request is both relevant to the service(s) in question and appropriate to ask for. The overall intention is for the reports to be sufficiently tailored to reflect the way in which “each service is designed, used, and operated.” There are matters listed in Part 1 of Annex A that are not relevant to the Wikimedia projects as a publicly transparent, low risk platform. To require us to start to collect additional data about our users and how they engage on our websites and to provide such information in response to a transparency notice would not be an accurate reflection of how our services are designed, used, or operated. Additionally, it would be inconsistent with the broadly accepted best practice of data minimisation. For example, information about the number of UK users on the service or who have encountered a specific category of content is one of the “core” pieces of information Ofcom will seek. Additionally, under point 5 in Part 1 of Annex A, “systems and processes that a provider operates,” the illustrative example refers to Ofcom asking for the “frequency of UK user visits to informational pages, such as terms of service, transparency reports or user policies.” These are two pieces of information that we do not currently collect.
--	--

	While it is encouraging that Ofcom will seek to communicate their proposed areas of focus for “thematic” information the year ahead of transparency reporting, there is no indication that they will do so for “core” information. Given that Ofcom retains the option to ask for core information about any of the listed matters, but does not indicate whether they will seek information on a few or all of the matters in a given year makes it difficult to plan. In the case of the Wikimedia projects, it seems clear that the Bespoke approach to requesting specific information under the transparency reporting notices will be the most appropriate and provide Ofcom with the most relevant information. C) We agree with Ofcom’s plan to issue a draft transparency notice prior to the formal notice, as was the case with the previous information notices. This gives each service an opportunity to make representations regarding its requirements. D) N/A
Are there any aspects in the draft guidance where it would be helpful for additional detail or clarity to be provided?	Confidential? – N It would be helpful if Ofcom could provide illustrative “examples of types of information” for all matters listed in Part 1 of Annex A.
are the suggested engagement activities set out in the draft guidance sufficient for providers to understand their duties and Ofcom’s expectations?	Confidential? – N Yes

Question	Your response
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?	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.	Confidential? – N Ofcom should have regard to the pre-existing transparency reporting cycles that each service has for their voluntary reports and “stagger” the notices in line with the existing schedules. Similarly, Ofcom should have regard to the transparency reporting cycles required under the EU DSA. In the case of the Wikimedia Foundation, we release two voluntary transparency reports each year—the first covers July-December of the prior year and the second covers January-June of the current year.
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?	Confidential? – N Ofcom must consider factors beyond financial resources and technical expertise when evaluating the “capacity” of a service provider, including the number of staff dedicated to legal and compliance functions; how much of the associated work is not automated due to platform architecture differences; and what constraints exist for non-profit service providers that would make hiring seasonal help or engaging outside assistance for producing a separate annual transparency report impracticable. Ofcom indicates in 3.31 of Annex A that the focus areas for their transparency notice requirements may change annually and the required information may differ in scope and scale. Ofcom will seek to communicate their proposed areas of focus for “thematic” information the year ahead of transparency reporting, but may not do so for “core”

	information. Ofcom retains the option to ask for core information about any of the matters listed in Part 1. If a service is required to make large changes in order to provide required data to Ofcom in one transparency report, it should be understood whether Ofcom anticipates requiring that information to be provided in subsequent years before changes to existing processes and policies are made by the service provider. Ofcom recognizes that services may be categorised or de-categorised during the reporting year, and they will only ask services to produce information about duties that services must comply with at the time the transparency notice is issued. However, if a service becomes newly categorised in a given year, Ofcom should consider that the provider will be dedicating financial and staff resources to make adjustments in order to meet the associated obligations under the Act. Such an effort will likely require additional time to provide newly-required information to Ofcom in response to a transparency notice in the present year and potentially in the following year.
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?	N/A

Question	Your response
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?	N/A

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.	Confidential? – N We encourage Ofcom to accept services' voluntary transparency reports in their existing formats, and to not require service providers to re-input the information into another format or template. Additionally, Ofcom should utilize publicly-available information provided by services like ours: WikiStats, as well as, when available, transparency databases hosted by other regulators. While the information will not be UK-specific, it can provide a basis of comparison and be used to glean additional insights and observe emerging trends. While we understand that there is value in doing data comparisons across the industry, services like the Wikimedia projects do not function as large commercial platforms do and therefore do not have the same associated metrics and data that other service providers retain and track in their normal course of business.
--	---

Question	Your response
Please provide any other comments you may have.	
General comments	

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