Online Safety Fees & Penalties

Statement

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1. Overview

1.1 The Online Safety Act 2023[1] (the Act) received Royal Assent on 26 October 2023, creating a new regulatory framework which makes platforms with links to the United Kingdom – including social media, search, and pornography services – legally responsible for keeping people, especially children, safer online. The providers of these services have new duties to protect users in the UK by assessing risks of harm and taking steps to address them. As the UK's online safety regulator, Ofcom has been working to establish the new regime, including our consultation on implementing the fees regime and the approach to setting the maximum level of penalties under the Act.

1.2 Ofcom's new online safety responsibilities require significant resources to, amongst other things:

i) Consult on and deliver many regulatory documents required by the Act;

ii) Undertake research into the causes of, and mitigations for harms online; and

iii) Engage effectively with online services and other interested stakeholders to drive compliance, including undertaking enforcement activity where necessary.

1.3 The Act stipulates that Ofcom's costs to deliver these responsibilities should be funded by industry through a fees regime.[2]

1.4 Under the Act, both Ofcom and the Secretary of State for the Department for Science, Innovation and Technology (DSIT) are responsible for implementing the fees regime.

1.5 We published a public consultation document[3] setting out our proposals to implement the fees and penalties regime (the consultation) on 24 October 2024. The consultation period closed on 9 January 2025.

1.6 We received 26 consultation responses, representing a broad range of providers and sectors. The non-confidential responses we received can be viewed on the online safety fees and penalties consultation page on our website.

1.7 This statement sets out Ofcom's decisions and recommendations[4] on aspects of the fees regime which must be put in place before Ofcom can start charging fees to the providers of regulated services. In addition, as explained below, some of our decisions are also relevant to the maximum level of penalties that can be imposed by Ofcom for breaches of requirements under the Act.

1.8 The Act stipulates that the fees payable by the provider of a regulated service should be set by reference to that provider's Qualifying Worldwide Revenue (QWR), and any other factors Ofcom considers appropriate. The definition of QWR used for the calculation of fees is also used to calculate the maximum penalty that we can impose when we find a provider in breach of its duties under the Act.

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[1] Online Safety Act 2023.
[2] Part 6 of the Online Safety Act 2023.
[3] Consultation: Online Safety - fees and penalties - Ofcom.
[4] Ofcom's advice to the Secretary of State includes recommendations on the QWR Threshold in chapter 5 and the UK Revenue Exemption in chapter 4 that will be subject to the Secretary of State's approval.

1.9 Our reasoning for the decisions outlined below and a summary of stakeholder responses relevant to each topic can be found in relevant sub-chapters that follow through the document.

What we have decided – in brief

QWR definition

- We define QWR as the total revenue of a provider referable to the provision of the following parts of regulated services anywhere in the world: first, the parts on which regulated user-generated content may be encountered; second, the parts on which search content may be encountered; and third, the parts on which regulated provider pornographic content may be encountered. We refer to these parts of a regulated service as the 'relevant parts' in the remainder of this statement.

Apportionment

- Where revenue arising in connection with relevant parts of regulated services cannot be separately identified from revenue arising in connection with other parts of those regulated services (or non-regulated services), providers should apportion revenues using a just and reasonable approach. We will consult on QWR guidance in Q3 2025 intended to support providers in the apportionment of referable revenue.

Aggregation

- We have decided that providers should aggregate revenue from the relevant parts of all their regulated services for the purposes of calculating QWR.

UK Revenue Exemption

- Subject to the Secretary of State's approval, for fees-related duties, we have decided to exempt providers of regulated services whose UK referable revenue[5] is less than £10 million.

QWR Threshold for paying fees

- We have decided to advise the Secretary of State to set the QWR threshold, at or above which providers of regulated services will be required to pay fees, at £250 million. We consider that any threshold figure within a £200 million to £500 million range is appropriate. The Secretary of State will now decide the final threshold which is to apply.

Joint and Several Liability for Penalties

- We have decided to adopt a different definition of QWR for the purposes of determining the maximum penalty cap when we find a provider and one or more undertakings in a group of companies jointly and severally liable for breaches of the Act. In this situation, QWR will be defined as the worldwide revenue from all companies within a group, regardless of whether that revenue is referable to a regulated service.

Statement of Charging Principles (SoCP)

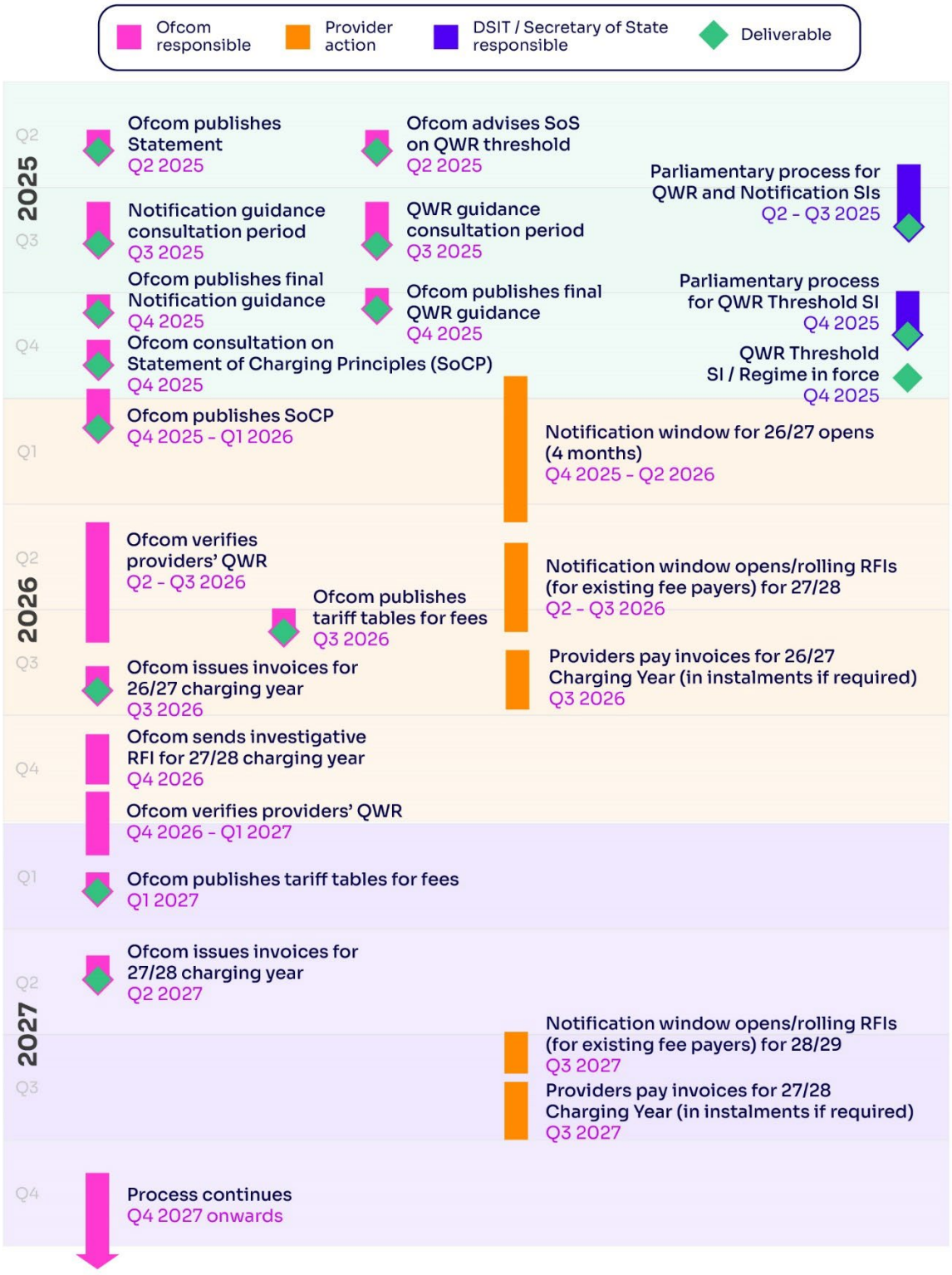
[5] The revenues of a provider which may arise anywhere in the world but is attributable to the provision of one or more regulated services to UK users.

- The SoCP sets out the principles that we will apply when setting the fees payable by providers. Whilst we will consult on our SoCP in Q4 2025, this statement sets out a number of decisions relevant to the SoCP. These include our decision to set fees solely on a provider's QWR and to adopt a single percentage of revenue approach so that, in a charging year, each provider liable to pay fees would pay the same percentage of their QWR. We anticipate a tariff in the region of 0.02 – 0.03%. Our SoCP consultation will include further detail on practical considerations including tariff calculation and invoicing.

Notification

- We have decided that providers should electronically notify Ofcom of their liability to pay fees. This notification should include evidence supporting the details of providers' regulated services and QWR, a declaration affirming the accuracy and completeness of the evidence, and, where relevant, a statement that this is their first fee-paying year.

Figure 1.1: Timeline for the implementation of the fees and penalties regime



[6]

[6] Reference to 'Q1', 'Q2', 'Q3' and 'Q4' in the timeline graphic indicate the quarters of the relevant calendar year. For example, Q2 2025 refers to the months of April, May and June 2025.

2. Background

Why there is a fees regime for online safety

2.1 Ofcom is the UK's independent regulator for communications services. We have regulatory responsibilities for the telecommunications, post and broadcasting sectors, as well as for online services. These include UK-linked user-to-user and search services and online services that publish pornography, which are all in scope of the Act. These also include online video services with the required connection with the UK, referred to as Video-Sharing Platforms (VSPs), which are regulated currently under Part 4B of the Communications Act 2003 (CA03). The CA03 places a number of duties on Ofcom that we must fulfil when exercising our regulatory functions, including our online safety functions.[7]

2.2 Ofcom's regulatory activities are mainly funded in two ways: fees levied on industry in accordance with various legislative provisions that enable us to put in place charging regimes, and retention of spectrum fees collected by Ofcom under the Wireless Telegraphy Act 2006 (WTA).[8]

2.3 Ofcom currently levies fees on the providers of regulated services in the UK's broadcasting, telecoms, post and video-on-demand sectors.[9] In our non-licensed sectors, fees are only levied on providers that exceed a specified turnover threshold and are calculated and charged in accordance with our Statements of Charging Principles.[10] In such cases charges are based on relevant providers' turnover as specified in the relevant Statement of Charging Principles and the costs of our regulatory functions in each relevant regulated sector. As such, they are a means of allocating UK regulatory costs to providers of UK regulated services.

2.4 In each financial year, Ofcom is required to balance its expenditure with its income,[11] and Ofcom operates within an overall financial cap set by HM Treasury and DSIT, which acts as a ceiling as to how much Ofcom can spend in any given year. Ofcom's fees and charges are subject to audits by Ofcom's internal auditors and the National Audit Office (NAO). The NAO are also able to conduct value for money audits of Ofcom and its work, helping to ensure Ofcom provides value for money in all of its activities.

2.5 Ofcom's new online safety responsibilities under the Act require significant ongoing resources to implement and oversee the regulatory regime. These include, amongst other things, to:

i) Consult on and deliver many regulatory documents required by the Act;

ii) Undertake research into the causes of, and mitigations for, harms online; and

[7] See Annex 2 for further details about Ofcom's general duties under the Communications Act 2003, in particular Ofcom's duties under section 3 of the CA03.
[8] This happens in accordance with a statement of retention principles under section 401 of the CA03.
[9] Telecoms – section 38 CA03; Network Infrastructure Security – Network and Information Systems Regulations 2018; Post – Postal Services Act 2011; TV & Radio Broadcasters – Broadcasting Act 1990 and 1996; BBC – BBC Charter; Video On Demand – section 368NA CA03.
[10] Statement of Charging Principles.
[11] Paragraph 8(1) of the Schedule to the Office of Communications Act 2002.

iii) Engage effectively with online services and other interested stakeholders to drive compliance, including undertaking enforcement activity where necessary.

2.6 To date, with the agreement of HM Treasury, Ofcom's costs relating to online safety have been covered by Ofcom retaining WTA receipts. However, the Act includes provisions that mean Ofcom's costs must in the future be covered by providers of regulated services through a fees regime, in line with what already applies in Ofcom's other regulated sectors.[12]

2.7 The fees regime established under the Act will:

i) Enable Ofcom to charge fees which, in aggregate, are sufficient to meet – but do not exceed – the annual cost to Ofcom of the exercise of our online safety functions (by reference to the financial cap detailed above).
ii) Provide for Ofcom to charge additional fees to recover the initial costs of setting up the online safety regime once the Secretary of State has made regulations to put in place a regime to recover initial costs.

How the fees regime will be implemented

2.8 As set out in paragraph 1.7 of the consultation and the timeline in the Overview chapter of this statement, a number of steps need to be fulfilled before the fees regime becomes operational and Ofcom can start charging fees. This statement includes decisions on a number of these steps, as explained further below.

Qualifying worldwide revenue (QWR)

2.9 Ofcom must make regulations that set out how the QWR of a provider of a regulated service is to be determined and define the 'qualifying period' to which QWR relates (the QWR Regulations).[13] These regulations must be laid before Parliament by the Secretary of State.[14]

QWR threshold

2.10 Ofcom must also, following consultation, advise the Secretary of State on where to set the QWR threshold figure at or above which providers of regulated services will be required to pay fees. The Secretary of State will then decide that QWR threshold figure and set it in regulations, which once made will be laid before Parliament.[15]

Notifications

2.11 Providers of regulated services are required to notify Ofcom in particular circumstances, including where they are liable to pay fees as their QWR meets or exceeds the QWR threshold, unless exempt.[16] Ofcom may make regulations that specify the "evidence,

[12] Schedule 10 of the Act also includes provisions to recover the initial costs of setting up the online safety regulatory regime – see paragraphs 2.21-2.22.
[13] Section 85(1) of the Act.
[14] These regulations are subject to the 'affirmative resolution procedure' meaning before they are made a draft must be approved by a resolution of each House of Parliament.
[15] Section 86(2) of the Act. These regulations are subject to the 'negative resolution procedure' meaning that they are subject to annulment by a resolution of either House of Parliament.
[16] See section 83(1)(a), subsections (b)(i) and (b)(ii) of the Act.

documents or other information" providers must supply to Ofcom for relevant QWR notifications, and the way in which these should be supplied (Notification Regulations).[17] Again these regulations must be laid before Parliament by the Secretary of State.

Exemptions

2.12 Ofcom also has a power to exempt particular descriptions of providers of regulated services from the duty to notify and the duty to pay fees where Ofcom considers this to be appropriate, and subject to the approval of the Secretary of State.[18] Ofcom must publish details of any such exemption.

Statement of Charging Principles

2.13 Before Ofcom can start charging fees, Ofcom must put in place a Statement of Charging Principles[19] (SoCP) containing the principles that Ofcom will apply in setting fees. The SoCP must include among other things details about the computation model used by Ofcom to calculate the fees payable.[20] The fees payable must be set by reference to the provider's QWR for the qualifying period for the relevant charging year, as well as any other factors that Ofcom consider appropriate.[21]

QWR for penalties

2.14 The Act grants Ofcom a range of enforcement powers where a provider fails to comply with its duties under the Act. Where we find a provider has contravened its obligations, we have the power to impose a penalty of up to 10% of its QWR or £18 million (whichever is greater).[22]

2.15 The concept of QWR as set out in Part 6 of the Act (i.e. relevant to the determination of fees) is also used to calculate the maximum penalty that we can impose when we find a provider in breach of its duties under the Act. The Act provides that the QWR Regulations that explain how QWR is to be determined for the purposes of the fees regime will also apply for calculating the maximum penalty on the provider of a regulated service in an enforcement context.[23]

2.16 Separately, the Act also enables us to set out in regulations a definition of QWR for a 'group of entities'.[24] This applies when we are calculating the maximum penalty that we can impose when we find a provider and one or more undertakings within its group jointly and severally liable for a breach. The definition of QWR for these purposes may be different to the definition of QWR for the purposes of calculating fees or when used to impose a penalty only on the provider of a regulated service.[25]

[17] Section 85(2) of the Act. These regulations are also subject to the 'negative resolution procedure'.
[18] Section 83(6) of the Act.
[19] Section 88 of the Act.
[20] Section 88(3)(a) of the Act.
[21] Section 84(2) of the Act.
[22] Paragraph 4(1) of Schedule 13 of the Act.
[23] Paragraph 4(9) of Schedule 13 of the Act.
[24] Paragraph 5 of Schedule 13 of the Act.
[25] Paragraph 5(9) of Schedule 13 of the Act.

Ofcom's general duties and Secretary of State's guidance

2.17 We set out the legal framework for the decisions in this statement in Annex 2. In making these decisions, we must act in accordance with our general duties in section 3 of the CA03. In addition to our principal duty to further the interests of citizens and consumers, these include our duties to:

i) secure the adequate protection of citizens from harm by the appropriate use by providers of regulated services of systems and processes to reduce the risk of harm from content on their services;[26]
ii) have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, as well as any other principles appearing to Ofcom to represent best regulatory practice;[27] and
iii) have regard to the desirability of promoting competition in relevant markets and encouraging investment and innovation.[28]

2.18 In addition, in developing the principles to be included in the SoCP and exercising other functions in relation to the fees regime, we are required to have regard to principles set out by guidance issued by the Secretary of State.[29] In May 2024, the then Secretary of State published guidance[30] setting out three overarching principles to which we have had regard in developing our proposals for the fees regime. In summary:

i) **Proportionality** – fees must be applied proportionately to the range of regulated providers, considering revenue and any other relevant factors, as well as recognising the potential burden on providers. The Guidance also highlights that this principle is important to the UK Government's intention to limit the impact of online safety regulation on Small and Medium Enterprises (SMEs), and to ensuring the fee regime is fair and manageable. We consider ensuring objectivity and avoiding unfairness in our approach to be part of proportionality in this context.
ii) **Transparency** – it should be clear to firms what fees they are paying and why they are paying them. We consider that transparency in relation to the fees regime will primarily be secured through Ofcom consulting transparently on our policy proposals. We are also transparently presenting Ofcom's approach in our statement and final advice, as well as through the secondary legislation and the SoCP.
iii) **Stability** – the principles used to set fees should be clear and consistent so that providers are able to understand how fees will be calculated so they are able to incorporate this into long term plans. This principle of stability aligns with Ofcom's general duty under section 3(3) of the CA03 that regulatory activities should be consistent and accountable.

2.19 The guidance also notes that Ofcom's approach to charging fees should be 'robust and fit for purpose' in the interests of industry, Ofcom and the government. We consider that a relevant consideration linked to this, the overarching principles and our general duties is

[26] Section 3(2)(g) of the CA03.
[27] Section 3(3) of the CA03.
[28] Section 3(4)(b) and (d) of the CA03.
[29] Section 87 of the Act.
[30] DSIT, Guidance to the regulator about fees relating to the Online Safety Act 2023, 24 May 2024.

seeking to avoid unnecessary complexity. This could increase compliance burdens for fee-paying service providers, increase the costs to Ofcom of implementing the fees regime and, in the context of calculating maximum penalties, lead to an inefficient use of limited enforcement resources. In the rest of this document, we refer to this consideration as the 'workability' principle.

2.20 We recognise that it has been necessary to make trade-offs between the above principles and exercise regulatory judgment in deciding on the appropriate approach. We have identified how we have had regard to these principles in discussing the options we have considered when making our decisions in this statement.

Future consultation by the Secretary of State on additional fees: Recovery of Ofcom's initial costs

2.21 Providers of regulated services who are liable to pay fees as set out above will also be required to pay additional fees over a number of years to recover the initial costs of setting up the online safety regime.[31]

2.22 Before Ofcom can charge these additional fees, the Secretary of State must consult on, and make, regulations which set out how these additional fees will be calculated and the period over which Ofcom should recover them (which may be a period of between three to five years, and which cannot start until after the 'initial charging year' – i.e. the first year that Ofcom issues invoices to providers). The recovery of initial costs is not covered in this statement. DSIT will separately consult on the regime to recover initial costs.

[31] Schedule 10 to the Act.

3. QWR definition

Summary

What is this chapter about?

This chapter sets out:

- Our definition of QWR which will be used to assess the liability of providers to pay fees and set maximum penalty caps, other than in the case of joint and several liability.
- Our approach for providers of multiple regulated services; how revenues should be apportioned; and the approach regarding revenues for other group undertakings.
- The qualifying period to which QWR relates for the purposes of setting fees.

What have we decided?

We have decided that:

- QWR will be defined as the total amount of revenue the provider receives that is referable to relevant parts[32] of a regulated service.
- QWR will be defined by reference to worldwide revenues.
- QWR will include referable revenue for all a provider's regulated services rather than a subset of those services.
- Providers should apportion revenues using a just and reasonable approach where referable revenues cannot be separately identified from revenues referable to other parts of regulated services or non-regulated services.
- QWR must include referable revenues which are received by other group undertakings.
- Revenue must be converted to pound sterling (GBP) using a just and reasonable exchange rate.
- The qualifying period for fees is the second calendar year preceding the one within which the charging year begins.[33]

Why are we making these decisions?

The reasoning for our decisions is set out in more detail throughout this chapter. In summary, the reasoning is as follows:

- Defining QWR with regard to revenue referable to relevant parts of service is in our view proportionate and differentiates between providers whose regulated service is comprised largely (or entirely) of relevant parts and those where the relevant part comprises only a small part of the regulated service.
- Defining QWR with regard to worldwide revenue is proportionate and in accordance with the legislative intent of the Act. The Act requires QWR to be used for both fees and penalties and the definition of QWR must therefore meet the needs of both. Referring to

[32] See paragraphs 3.29 – 3.39 for further detail.

[33] For example, for a charging year from 1 April 2026 to 31 March 2027, the qualifying period would be 1 January 2024 to 31 December 2024.

worldwide revenues, in conjunction with our broader approach, aligns with our objective to allocate UK regulatory costs in a proportionate way and encourage compliance through effective penalty caps which accords with Parliament's intentions.

- A just and reasonable approach to apportionment allows providers flexibility, opportunity to tailor to their specific circumstances and avoid unduly prescriptive rules. We intend to consult on further guidance to support this process in Q3 2025.
- Including referable revenues received by other group undertakings in group QWR helps avoid discrepancies in QWR due to different accounting practices within groups, contributing to a fairer fee regime.
- Allowing providers to convert revenue to GBP using a just and reasonable exchange rate allows flexibility based on circumstances whilst avoiding the limitations of specifying a single source.
- There were limited responses, but these were generally supportive, for the qualifying period proposal which gives providers time to plan for fees and enables notification and verification of QWR to draw on audited accounts.

Chapter Overview

3.1 In our consultation we identified a number of elements relevant to determining a provider's QWR, as follows:

i) Types of revenue referable to a regulated service;

ii) which geographic revenues are to be brought into account;

iii) the treatment of revenues arising from two or more regulated services;

iv) apportionment of revenue to regulated services;

v) inclusion of revenues received by other group undertakings;

vi) approach to currency conversion; and

vii) the relevant period for assessing QWR for fees and penalties.

3.2 We explore each of these elements in turn through separate sub-sections within this chapter and outline both our decisions and accompanying reasoning, which takes into account the views of respondents to our consultation.

Introduction

3.3 The Act requires us to make regulations that set out how the QWR of a provider of a regulated service is to be determined.[34] These regulations must be laid before Parliament by the Secretary of State in the form of a Statutory Instrument (SI).

3.4 We briefly summarise how the Act defines 'regulated services' and 'provider', as these are relevant to our decisions in relation to QWR.

3.5 Regulated services[35] relate to the following categories of internet service:[36]

[34] Section 85(1) of the Act.
[35] Section 4(4) of the Act.
[36] See section 228 of the Act for the definition of an 'internet service'.

i) **User-to-user services**. These are internet services that enable users of the service to generate, share or upload content on the service that may be encountered by other users of the service ('user-to-user functionality').[37] Note that it does not matter what proportion of content on a service is considered user-to-user for the overall service to be categorised as a user-to-user service.[38]

ii) **Search services**. These are internet services which are, or include, a search engine.[39]

iii) **Services that feature provider pornographic content**. These are internet services on which pornographic content is published or displayed by the provider of the service. These are also known as Part 5 services as the providers of such services are subject to duties set out in Part 5 of the Act.[40]

3.6 To qualify as regulated services, all categories of service must have links with the UK, regardless of where they are based or registered.[41]

3.7 In this statement, we refer to those parts of a regulated service on which regulated user-generated content,[42] search content[43] or regulated provider pornographic content[44] (as appropriate) may be encountered[45] as the 'relevant parts' of a regulated service. This reflects the fact that a regulated service may comprise different parts, only some of which are relevant parts.

3.8 The 'provider' of a regulated service is the entity, or individual(s), that has control over who can use the user-to-user part of the service (for user-to-user services), the operations of the search engine (for search services) or which content is published and displayed on the service (for services that feature provider pornographic content).[46]

3.9 Under the Act, a provider's QWR is used to assess two things:

i) **Liability to pay fees:**[47] Where the QWR of a provider is above a threshold set by the Secretary of State in regulations, they will be required to pay fees, unless otherwise exempt.

ii) **Maximum penalties:**[48] Where we find a provider has contravened its obligations under the Act, we have the power to impose a penalty of up to 10% of its QWR or £18 million, whichever is the greater. It is important to note that provider QWR informs the calculation of the maximum penalty cap. The actual penalty amount that we impose in any given case will be calculated in line with our Penalty Guidelines[49] and must be both appropriate and proportionate to the failure or failures in respect of which it is

[37] There are exceptions set out in Schedule 1 of the Act that, if applicable, exempt a service from being a user-to-user service.
[38] Section 3(2) of the Act.
[39] There are exceptions set out in Schedule 1 of the Act that, if applicable, exempt a service from being a search service.
[40] The providers of user-to-user services and search services are subject to duties under Parts 3 and 4 of the Act.
[41] The criteria for a service to have 'links to the UK' is set out in section 4(5) - 4(6) of the Act for user-to user or search services, and section 80(2)-80(4) of the Act for service providers that display or publish pornographic content. See also Overview of regulated services from Statement: Protecting people from illegal harms online - Ofcom.
[42] See section 55(2) of the Act for definition of 'regulated user-generated content'.
[43] See section 57(2) of the Act for definition of 'search content'.
[44] See section 79(3) of the Act for definition of 'regulated provider pornographic content'.
[45] See section 236(1) for definition of 'encounter'.
[46] Section 226 of the Act.
[47] Section 83(2)(a) of the Act.
[48] Paragraph 4 of Schedule 13 to the Act.
[49] Penalty Guidelines.

imposed.[50] Where we consider that one or more undertakings in a group are jointly or severally liable for non-compliance, we may adopt a different definition of QWR, which we consider in chapter 6.[51]

3.10 Our regulations for determining the QWR of a provider can set out the circumstances in which amounts do or do not count as being referable to a regulated service, including where amounts relevant to a regulated service are received by other group companies.[52]

3.11 In relation to fees, our regulations must also define the qualifying period to which QWR relates. In relation to maximum penalties, the Act already specifies that the relevant period for assessing QWR is the most recent complete accounting period of the provider of the regulated service.[53]

3.12 In the following sections we set out our objectives for defining the QWR of a provider of a regulated service and then, for each of the elements listed above, our proposals, stakeholder responses and our decisions.

3.13 Table 3.1 summarises our decisions on each of the elements referenced in paragraph 3.1 above.

Table 3.1 Decisions on provider QWR definition

QWR element	Decision on provider QWR
i. Types of revenue referable to a regulated service	Total amount of revenue arising in connection with the provision of relevant parts of regulated services (the 'referable revenue')
ii. Which geographic revenues are to be brought into account	Worldwide referable revenues
iii. The treatment of revenues arising from two or more regulated services	Provider QWR includes referable revenue for all regulated services from that provider (i.e. aggregated)
iv. Apportionment of revenue to regulated services	Where referable revenues cannot be separately identified from revenues referable to other parts of regulated services (or non-regulated services), providers should apportion revenues using a just and reasonable approach.
v. Inclusion of revenues received by other group undertakings	Referable revenues which are received by other group undertakings must be included in QWR.
vi. Approach to currency conversion	Revenue must be converted to GBP using a just and reasonable exchange rate.

[50] Paragraph 2(4) of Schedule 13 to the Act.
[51] Paragraph 5 of Schedule 13 to the Act.
[52] Sections 85(3) and 85(4) of the Act.
[53] Paragraph 4(1)(b) of Schedule 13 of the Act; For the relevant provision on joint and several liability, see paragraph 5(4).

QWR element	Decision on provider QWR
vii. Relevant period for assessing QWR for fees and penalties	The qualifying period for fees is the second calendar year preceding the one within which the charging year begins, i.e. the calendar year two years prior to the calendar year within which the charging year begins. For penalties, the Act already specifies that the relevant period for assessing QWR is the most recent complete accounting period of the provider of the regulated service.[54]

Our objectives for defining provider QWR

3.14 In reaching our decisions on the definition of provider QWR we have had regard to the Secretary of State's Guidance, in particular the principle of proportionality. We consider that we have addressed the principle of transparency by clearly explaining in this statement our approach to defining provider QWR. We consider the principle of stability is more relevant to the SoCP (see chapter 7), though we have had regard to it where we think it is relevant to aspects of QWR definition. Whilst we have also had regard to whether our decisions are workable, (in terms of avoiding unnecessary complexity and considering whether providers could estimate QWR according to our definition), we have placed less weight on this principle.

3.15 Given that the definition of provider QWR applies to both fees and maximum penalty caps, we need to consider what is proportionate in each case.

3.16 As set out in our Penalty Guidelines, the central objective of imposing a penalty is deterrence.[55] The level of the penalty must be sufficient to deter the business from contravening regulatory requirements, and to deter the wider industry from doing so.[56] It is therefore important that the approach we take to determining QWR enables Ofcom to impose penalties that will function as an effective deterrent to non-compliance. This consideration suggests it could be proportionate to define provider QWR as broadly as possible to provide an effective deterrent to breaching the duties in the Act.

3.17 However, a very broad definition of provider QWR – for instance, one that captured all revenues generated by a provider, through both regulated and non-regulated activities - might not necessarily be proportionate for fees. The fees we set will meet the costs of regulating services within scope of the Act and we want to ensure that fees are allocated in a proportionate way. QWR provides a means of determining which regulated service providers are liable to pay an allocation of these regulatory costs via fees. Therefore, we consider it would be proportionate that revenues on which these fees are based are linked to those revenues a provider receives in respect of a regulated service, rather than revenues associated with activities not connected with the regulated service.

3.18 As regulated services generate revenues from a diverse range of sources (e.g. advertising, subscriptions, commissions), we also consider it appropriate for the definition of QWR to reflect this revenue diversity. We consider this would be proportionate from both a

[54] The providers of user-to-user services and search services are subject to duties under Parts 3 and 4 of the Act.
[55] Paragraph 1.4 of the Penalty Guidelines.
[56] Paragraph 4.2 of the Penalty Guidelines.

penalties perspective (to ensure provider QWR is defined as broadly as possible) and a fees perspective (to ensure the way providers decide to monetise their regulated services does not affect their liability to pay fees).

3.19 In deciding how to define provider QWR, we have exercised our regulatory judgement to strike an appropriate balance between these considerations. We explain how we have done so in the following sections.

i) Types of revenue referable to a regulated service

Our Proposals

3.20 We proposed that qualifying revenue is revenue referable to a regulated service. By this we meant revenue that arises in connection with the provision of a regulated service. We said that this would be proportionate for providers receiving revenues from activities not connected with the provision of the regulated service.[57]

3.21 Our draft QWR Regulations stated that "*an amount of revenue counts as referable to a regulated service only if, and so far as, it arises in connection with provision of the service*". These regulations further clarified that the reference to 'provision of the service' includes reference to its provision "*comprising all of its parts, whether or not including [the user-to-user part, parts where search content may be encountered and parts where regulated provider pornographic content may be encountered*".

3.22 We considered that our definition of referable revenue would capture the types of revenue commonly generated by regulated services, including advertising, subscription and one-off payments, as well as revenues that were more important for some providers, such as commissions (for example on marketplace sales), donations, and payment processing fees.

3.23 We did not propose to define 'revenue' itself given it is a generally understood accounting term, to be interpreted in line with generally accepted accounting practices. This meant providers must include in their determination of QWR amounts that they would account for as 'revenue' in the ordinary course of business - such as advertising and subscription, but also potentially other things like grants, while they should exclude items that usually aren't reported in revenue, such as sales taxes, VAT and commissions.

Stakeholder responses

3.24 Stakeholder comments on our proposals centred on the following themes:

i) **Whether revenue from the regulated service or relevant parts should be brought into account**. One respondent thought there was ambiguity between the definition of referable revenue in the draft QWR Regulations and the definition in the consultation document.[58]

ii) **The types of revenue that should be brought into account**. One respondent thought the definition of referable revenue did not make clear exactly what revenue should be included in the calculation.[59] Another sought clarification on whether we intended to exclude de minimis revenues.[60] Two respondents said that Business to

[57] Paragraph 3.1.7 of the consultation.
[58] Google response to the October 2024 consultation (Google), page 9.
[59] Apple response to the October 2024 consultation (Apple), pages 3, 8-9.
[60] Google, page 9.

Business (B2B) revenues i.e. services purchased by enterprise customers, should be excluded from QWR.[61] One respondent[62] questioned whether, where an Upstream Search Service (USS)[63] and Downstream Search Service (DSS)[64] have agreed that a USS is the provider for the purposes of Act, the DSS would be liable for fees. Another commented that there may be instances where some functionalities available on a regulated service to users outside of the UK are not available to UK users, and that it would not be proportionate for worldwide revenues referable to those functionalities to be included in a provider's QWR.[65]

iii) **The interpretation of revenue**. Some respondents assumed[66] that revenues for determining fees should be reported on a gross basis. Another respondent said it was unclear how providers should take account of commissions.[67] Two respondents also considered that the definition of referable revenue should reflect the terminology used in our Requests for Information (RFIs), which said the only revenue that is not referable to a service is revenue that would still be generated if the service was not provided.[68] They considered this definition was clearer and more workable.

Our decision

3.25 We have decided to define QWR as the total amount of revenue the provider receives that is referable to relevant parts of a regulated service.

3.26 We have decided not to define 'revenue' given it is a generally understood accounting term, to be interpreted in line with applicable accounting standards.[69]

3.27 Our reasoning is set out below and considers the following issues in turn:

i) Whether revenue from the regulated service or relevant parts should be brought into account.

ii) The types of revenue that should be brought into account.

iii) The interpretation of revenue.

3.28 We consider which geographic revenues (i.e. UK or worldwide) should be brought into account in the definition of referable revenue in sub-section (ii).

Whether revenue from the regulated service, or relevant parts of the regulated service, should be brought into account

3.29 As set out in the introduction to this chapter, an internet service is a regulated service if it includes user-to-user functionality, is a search engine, or provides provider pornographic content. The 'regulated service' taken as a whole could therefore be broader than those

[61] Twitter International Unlimited Company response to the October 2024 consultation (X), page 3; techUK response to the October 2024 consultation (techUK), page 6.
[62] [✂].
[63] The definition in paragraph 4.7(a) of Categorisation Research and advice applies to USS.
[64] As defined in paragraph 4.7(b) of Categorisation Research and advice.
[65] Uber response to the October 2024 consultation (Uber), page 2.
[66] [✂]; [✂].
[67] [✂].
[68] Google, pages 8-9; [✂]; Apple, pages 3, 8 and 9.
[69] The QWR Regulations define applicable accounting standards in the same way as the Finance Act 2020.

parts on which regulated user-generated content, search content or regulated provider pornographic content (as applicable) may be encountered (i.e. the relevant parts).

3.30 We consider that it is open to us to define referable revenue by reference to (i) the regulated service overall or (ii) the relevant parts of a regulated service.

3.31 Our intended consultation position was that referable revenue should be defined by reference to the relevant parts of a regulated service, though we generally used 'regulated service' as a shorthand for this. This is clear from the wording of case study 1 of the consultation.[70] However, having considered stakeholder responses, we recognise that our consultation position was ambiguous in places. For example, our consultation referenced referable revenue in the context of 'all of the parts' of a regulated service and our draft QWR Regulations defined referable revenue as including both relevant and non-relevant parts of a regulated service.

3.32 In this section we explain our decision to define referable revenue by reference to the relevant parts of a regulated service (i.e. on a narrower basis than might be the case if all of the revenues attributable to a regulated service were to be included) and we set out the changes made to the QWR Regulations to reflect this.

3.33 Where the relevant parts of a regulated service are significant, e.g. for a social media service or large search service, there might not be any meaningful difference between revenue referable to the regulated service overall or revenue referable to the relevant parts of a regulated service.

3.34 However, in other cases, the relevant parts of a regulated service could be relatively small – for example, a payment processing service offering limited user-to-user functionality – such that there could be a large difference between revenue referable to the regulated service overall and the relevant parts of the regulated service.

3.35 Defining referable revenue by reference to the regulated service overall could therefore, in some cases, lead to a much higher QWR than defining referable revenue more narrowly by reference to the relevant parts. While this could provide a more effective penalty deterrent, we do not consider it would be proportionate from a fees perspective, as explained below.

3.36 Where relevant parts of a regulated service are relatively small, we do not think it would be proportionate to define referable revenue by reference to the regulated service overall, as this would mean the provider could be liable to pay fees based on revenue associated with activities potentially unrelated to the provision of the relevant parts. For the avoidance of doubt, we also do not expect providers to include revenues referable to a service or functionality which is not available to UK users.

3.37 On this basis, we think it would be more proportionate to define referable revenue by reference to the relevant parts of a regulated service.[71] We also think that doing so could result in a more stable fee regime, as changes to fees payable by a provider would be linked to changes in revenues associated with relevant parts of regulated services, and not revenues associated with other activities. This might help providers incorporate fee paying into their long-term plans, though some fluctuation in fees is unavoidable given that the fee paid by a provider will depend on the level of other providers' QWR as well as their own, and in the event of changes to the size of Ofcom's online safety regulatory budget.

[70] Page 20, Consultation: Online Safety - fees and penalties - Ofcom.
[71] Paragraph 3 of the QWR Regulations. See Annex 3.

3.38 Defining referable revenue by reference to the relevant parts of a regulated service might require providers to undertake a more involved revenue apportionment exercise. For example, some providers might already identify revenue associated with the broader 'regulated service' for internal management purposes but not the relevant parts. In such cases it might be easier and more workable for providers to estimate revenue referable to the regulated service overall rather than relevant parts. However, while we recognise revenue apportionment could be a difficult exercise for some providers, we do not think this concern is significant enough to justify defining referable revenue more broadly by reference to the regulated service overall rather than the relevant parts. We respond to stakeholder comments more generally on revenue apportionment in sub-section (iv) below. We also intend to consult on the practicalities of QWR calculations in our QWR guidance consultation in Q3 2025.

3.39 We have therefore decided to define referable revenue by reference to the relevant parts of a regulated service. We have amended our QWR Regulations to reflect our decision.

The types of revenue that should be brought into account

3.40 Responses to our information requests (see Annex 6 for further detail) indicated that, in aggregate, the majority of revenue associated with regulated services was derived from advertising, subscription fees and one-off payments such as in-app purchases in mobile or desktop games. Other sources of revenue included commissions (for example on marketplace sales), donations, and payment processing fees, which, while relatively small sources of revenue overall, were more important for some providers.

3.41 Our assessment is that it would be proportionate for our definition of QWR to include all these sources of revenue to ensure the way providers decide to monetise their regulated services does not affect their liability to pay fees. All types of revenues are therefore potentially referable to relevant parts of regulated services.

3.42 We have therefore decided to determine QWR as the total amount of revenue the provider receives that is referable to relevant parts of a regulated service.

3.43 Our decision is reflected in our QWR Regulations. These say that referable revenue includes amounts generated from advertising and from the supply of goods or other services (which would include amounts like subscriptions and one-off payments) – this is intended to be illustrative only of the types of things which are meant by referable revenue and is not meant to be an exhaustive list.

3.44 We have decided not to provide that 'de minimis' (i.e. very small amounts) revenues should be excluded from the definition of QWR. We recognise that it is possible the relevant parts of some regulated services could be relatively small and that revenue referable to such parts could also be small. We also recognise that estimating revenue referable to relevant parts might require providers to apportion revenue, which we consider further in sub-section (iv) below, and that it would be reasonable to take a proportionate approach to apportioning revenue in such cases to avoid the exercise being unnecessarily prescriptive. However, having estimated revenue referable to a relevant part of a regulated service, we do not consider it would be appropriate to allow providers to then exclude it from QWR if it is 'de minimis'. We think it would be difficult to define such an exclusion, and would risk being unfair to providers as, for example, fees payable by a provider depend on the QWR of other providers as well as their own QWR and some providers might be able to benefit from a potential 'de minimis' exemption while others would not.

3.45 We have also reached the view that it is not appropriate to exclude B2B revenues from the definition of QWR. The Act is clear that 'users' of regulated services can be individuals or entities (i.e. business or other organisations).[72] Further, B2B revenues could arise in connection with relevant parts of a regulated service, and where this is the case, it would be appropriate to reflect that in QWR. Where B2B revenues are not directly associated with relevant parts of regulated services they might need to be apportioned. We consider the apportionment of revenue in sub-section (iv) below.

3.46 In relation to the question relating to DSS and USS, it is the provider of regulated services that is potentially liable for fees. Where the USS is the provider of a DSS for the purposes of the Act,[73] the USS QWR should include any revenue that is referable to the DSS (e.g. payments from the DSS to the USS for the use of search indexes). In this scenario, as the DSS is not the 'provider' it would not need to estimate or notify us of its QWR and it would not be liable for fees. To the extent that the stakeholder who raised this point is suggesting that payments from the DSS to the USS for the use of search indexes should not be included within the USS QWR, we disagree and consider that it is both proportionate and fair for such payments to be included within the USS QWR, where the USS is considered the provider of the DSS.

3.47 Where a DSS is the provider for the purposes of the Act, it will need to estimate the QWR associated with the provision of the service and notify us where this exceeds the QWR threshold.

The interpretation of 'revenue'

3.48 We have decided not to define revenue given it is a generally understood accounting term, to be interpreted in line with applicable accounting standards, such as UK GAAP, US GAAP or IFRS.[74] This is reflected in our QWR Regulations which require that, as far as reasonably practicable, for the purposes of the QWR determination, revenue amounts brought into account must conform to applicable accounting standards.

3.49 This means providers must include in their determination of QWR amounts that they would account for as 'revenue' in the ordinary course of business - such as the advertising and subscription examples from the previous sub-section, but also potentially other things like grants. Providers should exclude items that they do not routinely report in revenue, such as sales taxes and VAT. We note that for some providers, commissions could represent revenue (e.g. fees charged by a provider based on sales made on its platform) while for others commissions could represent a cost of sales (e.g. commissions paid by a provider for selling its game via an app store).

3.50 This approach should also guide providers as to whether revenues should be included in QWR on a gross or net basis. Under accounting standards, revenue is sometimes recognised on a gross basis and sometimes on a net basis (e.g. after commissions have been paid)

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[72] See, for example, section 227(1) of the Act.

[73] Further consideration of instances in which this may occur can be found in paragraphs 1.179 – 1.183 in Our approach to developing Codes measures document, published as part of our Statement on Protecting people from illegal harms online.

[74] The QWR Regulations define applicable accounting standards in the same way as the Finance Act 2020, rather than 'generally accepted accounting practices' (as was used in the draft QWR Regulations in our consultation). This change in terminology is intended to ensure that the QWR Regulations are sufficiently clear. We expect in most cases the revenue providers bring into account will conform to applicable accounting standards, but we have added the text 'as far as reasonably practicable' to allow for the possibility that providers could source some revenue data from internal systems that do not fully conform with applicable accounting standards. Where this is the case, we would expect providers to explain this in their QWR notifications

depending on things like the nature of the customer relationship.[75] We consider the most appropriate approach is for a provider to include in QWR amounts that it treats as revenue in the ordinary course of business, as reflected in its financial statements.

3.51 We have also considered whether to amend the definition of QWR to include the terminology used in our RFIs, which said the only revenue that is not referable to a service is revenue that would still be generated if the service was not provided.

3.52 Sometimes a provider will be able to separately identify revenue arising from the provision of relevant parts of regulated services, but sometimes revenue will need to be apportioned. Where a provider can credibly argue that a particular category of revenue (e.g. subscription) would be unaffected if the relevant parts of a regulated service were not provided, it may be reasonable not to apportion any of that revenue to the relevant part. However, we consider it appropriate that this be part of the apportionment exercise as opposed to amending the definition of referable revenue. If we were to amend the definition of referable revenue, providers may be able to avoid consideration of apportionment by claiming some types of revenues would be unaffected if relevant parts were not provided and were therefore not referable. We address stakeholder comments on apportionment in subsection (iv) below.

ii) Which geographic revenues are to be brought into account

Our Proposals

3.53 We considered two options for determining which geographic revenues are to be brought into account when determining QWR:

i) **Worldwide revenue approach:** Total referable revenues of a provider arising in connection with the provision of a regulated service anywhere in the world. Regulated services must have a link to the United Kingdom to be in scope.

ii) **UK revenue approach:** Referable revenues of a provider which may arise anywhere in the world but are attributable to the provision of a regulated service to UK users.

3.54 We proposed that QWR should be determined by reference to the worldwide revenue approach.

3.55 We explained our view that a worldwide revenue approach would be more likely to:

i) Enable Ofcom to impose penalties which effectively deter the provider from non-compliance.

ii) Be aligned with the way revenues are generated and accounted for in practice, which could reduce the compliance burden on providers and make calculation of the penalty cap a more straightforward exercise.

3.56 We recognised that some providers might have large global revenues but relatively small UK revenues and that requiring such providers to pay fees based on worldwide revenues could dampen the incentive to enter and invest in the UK market, or to remain if they are

[75] Annual reports usually explain how companies have recognised revenue. For example, the 2024 form 10-Ks for Meta and Alphabet explain if revenue is recognised on a gross or net basis on pages 93 and 57 respectively.

already present. We said that defining QWR by reference to UK revenues could help limit this potential impact. However, as we set out in chapter 5, we considered our UK revenue exemption would limit the risk of any such distortive effect and noted that the largest providers would be liable to pay most of our fees irrespective of whether the UK or worldwide revenue approach was used.

Stakeholder responses

3.57 While one respondent[76] agreed with our proposal, most respondents[77] who commented disagreed and advocated for a UK revenue approach.

3.58 Some stakeholders recognised the importance of deterring providers from non-compliance.[78]

3.59 Other comments generally focused on whether a worldwide approach was appropriate for fees. In summary, the arguments made against a worldwide approach and in support of a UK approach were as follows:

i) A worldwide approach is not aligned with the purpose and scope of the Act.[79]

ii) A worldwide approach could lead to double counting the cost of regulation.[80]

iii) A worldwide approach disproportionately penalises providers with relatively small UK revenue compared to worldwide revenue[81] and might result in fees that represent a large proportion of UK revenue.[82] A hypothetical example was given of a provider with £800m worldwide revenue and £1 million UK revenue that would pay significant fees whilst a provider with £240 million UK revenue and no worldwide revenue would pay no fees.[83] Respondents thought a UK revenue approach would be more proportionate.

iv) A worldwide approach penalises providers that offer a single service worldwide (e.g. via a '.com' domain) compared to providers that offer UK and non-UK versions of the service (e.g. via a '.co.uk' domain).[84] Where UK specific versions are provided, this could mean that the regulated service is the UK version of the service and worldwide revenue and UK revenues would be the same.

v) A worldwide approach could dampen the incentives to enter, invest or remain in the UK market.[85]

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[76] Marie Collins Foundation response to the October 2024 consultation (MCF), page 1.

[77] Vinted response to the October 2024 consultation (Vinted), pages 2-4; Hammy Media Ltd response to the October 2024 consultation (Hammy Media Ltd), pages 1 and 3; Online Travel UK response to the October 2024 consultation (Online Travel UK), pages 3 and 5; Apple, pages 2,4,-7; Google, pages 1-2, 6-7; [✂]; techUK, page 2; UK Interactive Entertainment response to the October 2024 consultation (UKIE), pages 4-6; X, pages 1-2; Uber, pages 1-2.

[78] [✂]; Financial Conduct Authority (FCA) response to the October 2024 consultation, page 1.

[79] Vinted, page 2; Hammy Media Ltd, page 1; Apple, pages 2,4-5; [✂]; techUK, page 2; UKIE, pages 5-6; X, pages 1-2. Vinted in particular noted that it would not be logical or fair to adopt a worldwide approach as the purpose of the Act is to protect UK users and Ofcom's administrative expenses are incurred in relation to this objective.

[80] Google, page 6; X, page 2.

[81] Google, page 6.

[82] Vinted, page 2; Apple, pages 2, 4- 5; Uber, page 1.

[83] Google, page 6.

[84] Apple, pages 2, 6.

[85] Vinted, pages 3-4; Hammy Media Ltd, page 1; Apple, page 2,5; [✂]; Uber, page 1; UKIE, page 5; X, page 2.

vi) A UK revenue approach would be workable and would not necessarily increase the administrative burden on providers.[86] Respondents thought our proposal for a UK revenue exemption demonstrates the feasibility of a UK revenue approach, with one saying it could be easier for video game providers to estimate revenue on a UK basis rather than a worldwide basis.[87] Even if providers do not routinely calculate UK revenue, providers could apportion worldwide revenue on a just and reasonable basis.[88] Some responses considered that, in proposing a worldwide approach, we had over-emphasised workability at the expense of proportionality.[89] One respondent suggested that providers should be able to choose which approach (UK revenue or worldwide) is easier for them to calculate.[90]

vii) It would be fair and proportionate to calculate maximum penalties using the UK revenue approach.[91]

Our decision

3.60 We have decided to define QWR by reference to worldwide revenues. Our reasoning is set out below and considers the following issues in turn:

i) Whether it is open to us to determine QWR by reference to worldwide revenues.

ii) Assessment of the proportionality of UK and worldwide revenue approaches for fees.

iii) Workability of the UK and worldwide revenue approaches.

iv) Assessment of the proportionality of UK and worldwide revenue approaches for maximum penalty caps.

v) Decision on whether to define QWR by reference to UK or worldwide revenues.

Whether it is open to us to determine QWR by reference to worldwide revenues

3.61 Notwithstanding stakeholder comments, our view remains that it is open to us to define QWR for the purposes of Part 6 and Schedule 13 of the Act by reference to a worldwide revenue approach.

3.62 We recognise that the purpose of the Act is to protect internet users in the United Kingdom, rather than all internet users. This is explicit in the introduction to the Act.[92] As we set out in paragraph 3.6, to qualify as a regulated service, a service must have links with the UK. Ofcom can also only recommend measures in Codes of Practice relating to the "design or operation of a Part 3 service in the United Kingdom, or as it affects United Kingdom users of the service".[93]

3.63 However, we do not agree with suggestions made by some stakeholders that we are not able to define QWR by reference to providers worldwide revenues and/or that we would exceed the territorial scope of the Act if we were to do so.

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[86] Uber, page 2; [✂].
[87] UKIE, pages 4-5.
[88] Uber, page 2.
[89] Meta Platforms Inc and WhatsApp LLC response to the October 2024 consultation (Meta), page 3.
[90] Uber, page 2.
[91] Hammy Media Ltd, page 3; [✂].
[92] Section 1(1) of the Act.
[93] Schedule 4, paragraph 11 of the Act.

3.64 The Act does not put boundaries on the geographic scope of revenues that can be 'qualifying' when determining a provider's QWR. Rather, it gives us discretion to determine which amounts should be qualifying. Further, both Part 6 and Schedule 13 of the Act explicitly reference qualifying worldwide revenues. Had it been the intention of Parliament that Ofcom should determine providers' qualifying revenues by focusing on UK revenues alone, we note that this could have been made explicitly clear in the Act.[94]

3.65 Further, we disagree that Ofcom would be exceeding the territorial scope of the Act if we were to set fees or calculate maximum penalties by reference to worldwide revenues. Irrespective of whether QWR is determined by reference to UK or worldwide revenues, Ofcom will only levy fees on the providers of *regulated services* (i.e. those with links to the UK) in respect of the discharge of our regulatory functions under the Act. Further, Ofcom can only impose a penalty to which Schedule 13 of the Act applies if the provider of a *regulated service* is found to be in contravention of the Act.

Assessment of the proportionality of UK and worldwide revenue approaches for fees

3.66 As set out at the start of this chapter, we consider it would be proportionate to define provider QWR for fees as those linked to the revenue a provider receives in respect of relevant parts of a regulated service, rather than revenues associated with activities not connected with the regulated service.

3.67 We consider that both the UK and worldwide revenue approach would be consistent with this objective as they both measure revenues associated with the relevant parts of a regulated service. However, we have considered if it could be more proportionate to set fees by reference to either approach below.

3.68 Our assessment is that the following points do not favour one approach over the other for the purpose of setting fees:

i) **The same amount of cost is recovered under both approaches**. It is important to be clear that the definition of QWR affects how our costs are recovered from providers liable to pay fees, but not how much is recovered in total. As described in paragraph 2.4, our annual costs are set in advance by HM Treasury and DSIT, so fees would be set to recover those costs from regulated providers eligible to pay fees, regardless of whether the worldwide or UK revenue approach is used. We therefore disagree with comments that adopting a worldwide approach would 'double count' the cost of regulation (i.e. fees are charged twice or more for regulation in multiple jurisdictions based on worldwide revenues) as under either approach we would only be recovering the costs of regulation in the UK to protect UK users.

ii) **The distribution of QWR is comparable under both approaches**. As we have explained above, both approaches will result in the same overall level of fees being levied across the providers of regulated services. We have additionally considered whether adopting either approach would have particular distributional effects that

[94] This has been made explicitly clear in other Acts of Parliament and secondary legislation. For example, paragraph 3 of the Schedule to the Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003 provides that 'applicable turnover' is generally limited to amounts derived from the sale of products and the provision of services falling within the ordinary activities of the enterprise *to businesses or consumers in the United Kingdom* after deduction of sales rebates, value added tax and other taxes directly related to turnover. Further, section 23(2)(c) of the Enterprise Act refers to 'turnover in the United Kingdom' as a criterion to determine whether a relevant merger situation has been created.

are sufficiently material to affect our judgement as to which approach is appropriate and proportionate. Our decisions set out in chapter 7 mean that a provider's fee will depend on its relative share of the total QWR of all providers eligible to pay fees, which means that services with the larger QWR will be liable for a larger proportion of our regulatory costs. Some providers will pay more under a worldwide revenue approach compared to a UK revenue approach and some less – what matters is the provider's relative share of QWR under either approach. Annex 6 provides a summary of revenue information informing our QWR decisions including an aggregated distribution of QWR under both approaches. Our analysis demonstrates that both approaches result in a broadly comparable QWR distribution, and therefore fees allocation. Based on responses to our information requests, the largest 5 providers represent around 90% of total QWR of providers in our sample, whether it is calculated using a worldwide revenue approach or a UK referable revenue approach.[95] This means we expect the largest providers to pay most of our fees under either approach. To the extent UK and worldwide revenues grow at similar rates, we would also not expect this result to change materially over time.[96] Whilst we acknowledge some differences are possible at individual provider level, we do not consider these to be sufficiently material to render the worldwide approach inappropriate or disproportionate.

3.69 Stakeholders made the following arguments that the UK revenue approach would be more proportionate for fees, and we agree that some of these are finely balanced:

i) **The UK revenue approach would be more consistent with the scope and purpose of the Act**. As noted from paragraph 3.62 above, we recognise that the purpose of the Act is to protect UK users and that online services must have links with the UK in order to be 'regulated services' and therefore be liable to pay fees. We have also covered in paragraph 3.63 our view that a worldwide revenue approach is consistent with the Act. We further note the Act provides Ofcom with a range of enforcement powers, including the power to impose financial penalties in cases of non-compliance. As we discussed in paragraph 3.78 below, we are concerned that a UK revenue approach would not provide an effective deterrent to non-compliance in some cases, particularly for large providers. For these reasons, we are not persuaded that it is more consistent with the scope and purpose of the Act to adopt the UK revenue approach.

ii) **A worldwide revenue approach would penalise providers with relatively small UK revenue and result in fees that represent a large proportion of UK revenue. This could reduce incentives to enter, invest or remain in the UK**. We accept that providers with relatively low UK revenues would pay more under the worldwide revenue approach compared to the UK revenue approach, while providers with relatively high UK revenues would pay less.[97] However, we do not agree that the

[95] See Annex 6. To the extent there are more providers liable to pay fees or the QWR associated with fee payers is higher, this percentage could be lower, but even so we would continue to expect the largest providers to pay most of our fees.
[96] Analysis of RFI data gathered to inform our proposals indicated comparable growth rates on average between 2022 and 2023 data.
[97] 'Relatively low' in this context means relatively low compared to the typical proportion of QWR (for providers above the threshold) that is represented by UK users.[98] This is broadly as expected. If UK revenues are typically around 7% of worldwide revenues (see Annex 6), then a tariff based on UK revenues would be higher than one based on worldwide revenues. In chapter 7, we estimate an indicative tariff of around 0.02 – 0.03% on worldwide revenues (based on responses to our information requests). We would therefore expect a tariff based on UK revenues to be around 15 times higher, which is consistent with fees representing around 0.3 – 0.4% of UK revenues.

worldwide revenue approach necessarily results in fees that represent a large proportion of UK revenue. The illustrative fees estimated in chapter 7 based on a worldwide revenue approach are equivalent to, on average, around 0.3 – 0.4% of UK revenues,[98] which we do not consider a large proportion of UK revenues nor not large enough to materially affect investment decisions. In such cases, we do not consider that one approach is clearly more proportionate than the other. However, we recognise that there could be situations where a provider has significant worldwide revenues but very small or non-existent UK revenues, for example where it has not yet launched its service in the UK. Requiring such providers to pay fees based on worldwide revenues could dampen their incentive to enter and invest in the UK market, or to remain in the UK market if they are already present but only have a small user base. In turn, this could affect levels of competition, investment, innovation and variety for UK users. In such cases using the UK revenue approach could limit this potential impact. Consistent with our consultation position, we think this potential impact could also be mitigated by adopting a UK revenue exemption, and we have decided, as set out in chapter 5, to exempt providers with UK revenue of less than £10 million from paying fees. We also note that this is relevant to our proposals on QWR aggregation, which we address in sub-section (iii) of this chapter.

iii) **A worldwide approach could penalise providers that offer a single service worldwide instead of UK and regional variants (e.g. via regional domains)**. It is possible that a provider's 'UK variant' could be the regulated service under the Act, and that other regional variants of the same service may not be regulated services. In such cases, this could mean that the 'worldwide' revenues notified to us may be based on the revenues associated with the UK variant only.[99] This is consistent with the definition of a regulated service in the Act – if a provider has services that are regulated because they meet the UK jurisdictional tests, those revenues will count towards QWR, while any revenues associated with non-regulated services are not counted.[100] On this basis, it is not clear to us that using the worldwide revenue approach would penalise providers of a single service, but we recognise that the combination of how the Act works and how providers and services are structured might result, in some cases, in otherwise similar services or providers paying different levels of fees.

3.70 Overall, our assessment of the various factors, including our consideration of the points made by respondents to our consultation, is that the effects for regulated services of adopting the UK or worldwide revenue approach for fees are small relative to the overall impact of the fees regime, given the same amount of cost is recovered and the distribution of QWR appears similar. While there might be some distributional effects between services,

[98] This is broadly as expected. If UK revenues are typically around 7% of worldwide revenues (see Annex 6), then a tariff based on UK revenues would be higher than one based on worldwide revenues. In chapter 7, we estimate an indicative tariff of around 0.02 – 0.03% on worldwide revenues (based on responses to our information requests). We would therefore expect a tariff based on UK revenues to be around 15 times higher, which is consistent with fees representing around 0.3 – 0.4% of UK revenues.

[99] Even if a provider offers regional variants of a service (for example, one with a UK domain name and others with overseas domain names), it does not necessarily follow that the regional variants with overseas domain names would not be regulated under the Act. This would depend on if they had links to the UK or not, on which see section 4(5) and (6) of the Act. Even if a service has regional variants, it does not follow that they would not be regulated services under the Act – this would depend on if they had links to the UK or not.

[100] Section 4(5)-6 of the Act.

our regulatory judgement is that these are not sufficiently material to affect the assessment and indeed one provider paying less will inevitably result in one or more other providers paying more to ensure that the total level of fees is the same. However, we recognise there are some arguments that would favour using a UK revenue approach, even if some of the risks of using a worldwide approach could be mitigated, such as via the UK revenue exemption.

Workability of the UK and worldwide revenue approaches

3.71 While we maintain that the worldwide revenue approach could be more aligned with the way revenues are often generated and accounted for in practice, and that responses to our information requests indicated that UK revenues are not routinely accounted for separately by large providers, we recognise that it would be possible for providers to estimate QWR using either a worldwide or UK revenue approach, and it might be easier for some providers to estimate UK revenues than worldwide revenues. Both approaches are likely to require providers to apportion revenue to relevant parts of regulated services. The UK approach might require additional work by some providers to estimate referable revenues, such as via further revenue apportionment to UK users, and by Ofcom to verify such estimates, but we agree that any additional work might not be significant enough on its own to justify a worldwide revenue approach over a UK revenue approach. We do not consider the comparative workability of these approaches to be a significant factor in reaching our decision.

3.72 We do not think it would be workable or provide regulatory certainty for providers to choose whether to estimate QWR using a UK or worldwide revenue approach, as one respondent suggested. This would risk providers estimating QWR on a basis that is inconsistent with the methodology to set the QWR threshold or would require the Secretary of State to set two different thresholds, and would incentivise providers to use the UK revenue approach if they took the view that it would result in lower fees and maximum penalty caps as compared to providers choosing to adopt the worldwide revenue approach. Our decision on whether to use the UK or worldwide revenue approach to estimate QWR therefore applies to all providers.

Assessment of the proportionality of UK and worldwide revenue approaches for maximum penalty caps

3.73 As set out at the start of this chapter, it could be proportionate to define provider QWR as broadly as possible to provide an effective deterrent to breaching the duties in the Act.

3.74 Consistent with our consultation position, we consider the UK revenue approach would not provide an effective deterrent to non-compliance in some cases, particularly for large providers.

3.75 Responses to our RFI indicated that the penalty cap for several of the largest providers within scope of the Act would be relatively low if calculated on a UK revenue basis, even though they are global businesses with substantial revenues running to multiple billions of GBP. We estimate that most providers for which we obtained UK revenue estimates might not have sufficient QWR under the UK revenue approach to generate a penalty cap in excess of £18 million (i.e. their UK revenue was estimated to be less than £180 million such that the maximum penalty cap of £18 million would apply given the penalty cap is based on the maximum of £18 million or 10% of QWR).

3.76 We estimate that UK revenues typically represent less than 10% of worldwide revenues associated with regulated services, based on responses to our information requests.[101] Accordingly, for the largest services, applying the statutory cap of 10% of QWR determined using a UK revenue approach (or £18 million, whichever is the higher) would result in a penalty maximum amounting to less than 1% of the provider's worldwide revenue in many cases, which we consider is too low to provide an effective deterrent to breaching the duties in the Act and inconsistent with Parliamentary intent.[102]

3.77 For smaller services, particularly where worldwide QWR is less than £180 million, this is less of a concern as the maximum penalty cap of £18 million would apply, which would represent more than 10% of worldwide QWR, and likely be sufficient to provide an effective deterrent.

3.78 In our view, determining QWR using the worldwide revenue approach would be proportionate and more likely than a UK revenue approach to allow us, in situations where we have identified a serious compliance breach, to impose financial penalties that could have a material financial impact on the relevant provider especially if the provider is a global business with substantial revenues. We therefore think that a worldwide revenue approach would be more likely to achieve our objective of deterring providers from non-compliance.

3.79 We recognise the point made by some respondents to our consultation that calculating QWR based on worldwide revenues could result in significant maximum penalty caps for the largest firms. We would, however, stress that the QWR figure is only used to calculate the maximum level of penalty that can be imposed under the Act. It is not a starting point for the determination of the level of penalty or a basis upon which penalties will be imposed. When determining the amount of any actual penalty, we will consider all the circumstances of the case and a range of factors to ensure the penalty imposed is appropriate and proportionate to the contravention.[103]

Decision on whether to define QWR by reference to UK or worldwide revenues

3.80 If QWR was only used to set fees, we agree that some of the arguments made by respondents to our consultation could support using the UK revenue approach over the worldwide revenue approach.

3.81 However, the same definition of QWR will also be used to set maximum penalty caps, and taking together the various factors, we place significant weight on the importance of penalties to provide an effective deterrent to breaching the duties in the Act. Ultimately, our judgement is that defining QWR using the worldwide revenue approach is more consistent with the objective of deterring providers from non-compliance with their duties in the Act, and with Parliamentary intent. In turn, this will contribute to the overall purpose of the Act of making the use of regulated internet services safer for individuals in the UK.

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[101] See Annex 6.

[102] See, for example, Online Safety Bill (Thirteenth sitting) - Hansard - UK Parliament. During that discussion, clause 118 of the Online Safety Bill (regarding the imposition of financial penalties by Ofcom) was considered. Alex Davies Jones (Lab) stated that financial penalties are "*absolutely vital if we are to guarantee that regulated platforms take seriously their responsibilities in keeping us all safe online*". She also stated that "*We support the use of fines. They are key to overall behavioural change….[w]e welcome clause 118, which…we hope will become a powerful deterrent*." Chris Philp (Con - Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport) responded that "*I will not speak at great length given the unanimity on this topic... The maximum penalty that can be imposed is the greater of £18 million or 10% of qualifying worldwide revenue. In the case of large companies, it is likely to be a much larger amount than £18 million*".

[103] Paragraphs 1.11-1.18 of Penalty Guidelines.

We note that the worldwide revenue approach would only bring into account worldwide revenues associated with relevant parts of regulated services and not revenues associated with other parts of regulated services or non-regulated services.

3.82 On balance, we have decided to determine QWR using the worldwide revenue approach because it will help ensure QWR can provide an effective deterrent through a higher maximum penalty cap linked to the relevant parts of regulated services. While there are some arguments that would favour a UK revenue approach, in our view they are not sufficiently strong to justify adopting a UK revenue approach for both fees and maximum penalty caps. In particular, while there might be some distributional effects as between services, our regulatory judgement is that these are not sufficiently material to affect the assessment.

iii) The treatment of revenues arising from two or more regulated services

Our Proposals

3.83 We proposed that a provider's QWR is determined by adding together the referable revenue for each regulated service it provides, i.e. QWR is to be determined in aggregate across all a provider's regulated services.

3.84 We said this would mean providers with comparable total QWR would pay similar fees regardless of how many regulated services they provide. As some provide multiple regulated services, we considered this approach would also simplify the administrative processes for providers and make it simpler for Ofcom to calculate fees, such as by issuing a single invoice per provider.

Stakeholder responses

3.85 One respondent agreed with our proposal[104] while several other respondents said our approach was disproportionate because:

i) It unfairly penalises providers of multiple services as services with low revenues would be included in provider QWR, which would not be the case if those services were provided individually.[105]

ii) It could create incentives for complex group structures with different providers for different services.[106]

iii) It could reduce the incentive to introduce new regulated services in the UK[107] and/or maintain smaller regulated services in the UK,[108] as once QWR is above the threshold and the UK revenue exemption does not apply, worldwide revenue for any new services would be added to QWR.

[104] MCF, page 1.
[105] Google, pages 9-10, Apple, pages 7-8.
[106] Google, page 10.
[107] X, page 2; UKIE, page 9.
[108] techUK, page 3.

3.86 Two respondents[109] also said that, even if the proposed approach had any benefit in simplifying the administrative process for providers, this would be outweighed by the increased fees liability.

3.87 Some respondents suggested that we should only aggregate referable revenues from regulated services that individually exceed the QWR threshold.[110]

Our decision

3.88 We set out in the previous two sections our decision to define referable revenue by reference to worldwide revenues associated with the relevant parts of a regulated service.

3.89 We have decided that a provider's QWR should include referable revenue for all of its regulated services rather than a subset of those services. Our reasoning is set out below under the following headings:

i) Options for aggregation of regulated services.

ii) Assessment of service aggregation for maximum penalty caps and fees.

iii) Decision on service aggregation for provider QWR.

Options for aggregation of regulated services

3.90 The Act requires us to set fees and maximum penalties[111] by reference to the QWR of the 'provider' of a regulated service. A provider can however provide multiple regulated services, and we have therefore considered whether and if so to what extent, revenues from regulated services provided by the same entity should be aggregated.

3.91 It is clear in our view that the Act anticipates some level of service aggregation. For example, section 83(3) of the Act requires the provider to notify Ofcom when its QWR exceeds the QWR threshold set by the Secretary of State, and for the notification to include details 'of all regulated services' from the provider. Further, had Parliament intended us to adopt a wholly disaggregated approach and consider QWR on a service-by-service basis, then we expect this would have been made explicitly clear in the Act. We also note that it would result in odd outcomes, such as different maximum penalty caps for the same provider depending on the regulated service to which the penalty relates, and that no stakeholders appear to have suggested that QWR should be calculated on a wholly disaggregated basis.

3.92 The main challenge to our proposal was what level of aggregation is proportionate. We have considered two options for defining provider QWR:

i) Aggregating referable revenues from all a provider's regulated services (full aggregation); or

ii) aggregating referable revenues from a subset of a provider's regulated services (partial aggregation). Some respondents suggested that this approach could just aggregate referable revenues for regulated services which are individually above the £250 million revenue threshold, and we have assumed this in the discussion below.

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[109] Apple, page 8; Google, page 11.
[110] Google, pages 2, 11; X, page 4; Apple, pages 3, 7-8.
[111] As discussed in chapter 6, a separate maximum cap on penalties applies where we have found joint and several liability for violations of the Act (by both the provider of the regulated service and group entities).

Assessment of service aggregation for maximum penalty caps and fees

3.93 For some large providers, the full aggregation approach and the partial aggregation approach will produce similar estimates of QWR. For example, if referable revenue for all regulated services is above £250 million (our assumed QWR threshold), provider QWR will be the same under both approaches. Analysis of responses to our information requests suggests that this scenario would apply to many of the largest providers.

3.94 However, for other providers, the approaches could lead to very different estimates of QWR. For example, if referable revenue for each of a provider's regulated services was below £250 million, provider QWR would be zero under the partial aggregation approach.

3.95 This is illustrated in the following example. Provider 1 has two regulated services with referable revenue of £500 million each, and provider 2 has five regulated services with referable revenue of £200 million each. Under the full aggregation approach provider QWR would be £1 billion for provider 1 and provider 2. Under the partial aggregation approach (assuming a service threshold of £250 million), provider 1 would have QWR of £1 billion but provider 2 would have QWR of zero.

3.96 Under the full aggregation approach maximum penalties would be the same for both providers (£100 million – i.e. 10% of £1 billion) and they would face the same fees. Under the partial aggregation approach, the maximum penalties for provider 1 would be £100 million but £18 million for provider 2,[112] and provider 1 would pay fees but provider 2 would not.

3.97 Given that both providers have total referable revenue of £1 billion, we do not consider it is proportionate that they would face such different penalty caps and fee liabilities, and we think there is a risk that the cap for provider 2 might not be an effective deterrent to breaching the duties in the Act, as in this example the penalty cap would represent 1.8% of total referable revenue.

3.98 In relation to penalties, we therefore consider the partial aggregation approach might not provide an effective deterrent to non-compliance in some cases, particularly for large providers of multiple regulated services that individually have referable revenues below the service threshold for inclusion in provider QWR.

3.99 In our view, determining QWR using the full aggregation approach would be proportionate and more likely than a partial aggregation approach to allow us to impose financial penalties that could have a material financial impact on providers, especially larger providers of multiple services. We therefore think that the full aggregation approach would be more likely to achieve our objective of deterring providers from non-compliance.

3.100 In relation to fees, we do not consider the partial aggregation approach would result in proportionate fee liabilities. In the example above, provider 2 would not be liable for fees despite having the same total referable revenue as provider 1. Recognising this is a hypothetical example, we also assessed the potential impact on fees based on responses to our information responses, where we estimated 20 of the respondents to the RFI could be liable to pay fees given our recommended threshold.[113] We estimate that the partial aggregation approach (with an assumed service threshold of £250 million) would see the

[112] Under the Act, maximum penalties are 10% of QWR or £18 million, whichever is higher.

[113] See chapter 4. We noted in our October 2024 consultation that the actual number of fee-paying providers could be significantly higher than 20, as not all potential fee-paying providers would have been covered by our RFI process.

fee liability for two of these 20 providers reduce by 10-15% (as some of their regulated services would have revenue less than £250 million, in turn reducing provider QWR), while the fee liability for the remaining providers would increase by around 1% to compensate. We do not consider that this represents a more proportionate outcome for the reasons given above – i.e. as it would mean providers with otherwise similar levels of QWR facing different fee liabilities.

3.101 On this basis, we consider the full aggregation approach is appropriate for both penalty caps and fees.

Response to other challenges raised by stakeholders

3.102 **Whether a full aggregation approach penalises providers of multiple services as services with low revenues would be included in QWR which would not be the case if those services were provided individually**. We agree that the full aggregation approach would mean providers of multiple services would need to include referable revenue for services with low revenues in their QWR calculation, which might not be the case if those services were provided by a separate provider.

3.103 This argument is akin to saying that similar regulated services should be treated the same for penalties and fees regardless of who the provider is and how the group is structured. We accept that argument has some appeal. However, as QWR must be set by reference to the provider, excluding some services from provider QWR could result in unfair outcomes in relation to penalty caps and fee liability, as illustrated above.

3.104 Under the Act, the identity of the provider matters and, in our view, as QWR must be set by reference to the provider, it is more proportionate, and results in fairer outcomes, to ensure that providers with similar levels of referable revenue face comparable penalty caps and fee liabilities. We consider that the full aggregation approach more appropriately ensures this, as explained above.

3.105 **Whether a full aggregation approach could create incentives for complex group structures with different providers for different services.** As QWR must be set by reference to the provider, we agree that, where a provider has multiple regulated services, there could be a general incentive to associate regulated services with different providers as this could potentially reduce the level of QWR for a provider, in turn affecting fee liabilities and penalty caps. As long as the provider can demonstrate that it is the entity which has control over a regulated service or services, this is allowed under the Act.

3.106 We think this incentive is a feature of both the full aggregation and partial aggregation approaches, and could be stronger in the full aggregation approach in some cases.

3.107 We have considered how the level of fees and penalty caps could be affected if a provider was able to associate each of its services with a separate provider. Comparing a full aggregation approach to a partial aggregation approach, our assessment is that a full aggregation approach would not affect incentives to associate services with separate providers for:

i) Larger providers with multiple services which each have revenue above the QWR threshold (Scenario 1). This is because total fees payable would be the same under a full and partial aggregation approach and this would not be affected by associating services with separate providers. While penalty caps would reduce if services were associated with separate providers, this applies to both the full and

partial aggregation approaches. We noted above that many of the largest providers appear to be similar to this type of provider.

ii) Smaller providers of multiple services which have total QWR below the threshold (Scenario 2). In this case, the provider would have no fee liability under either a full or partial aggregation approach and this would not be affected by associating services with separate providers. Depending on the provider's total QWR, penalty caps could reduce if services were associated with separate providers, but this applies to both the full and partial aggregation approaches.

3.108 However, we think the full aggregation approach could increase incentives to associate services with separate providers for large providers of multiple services which each have revenue below the threshold (Scenario 3). This is because associating services with separate providers could reduce fees and penalty caps under a full aggregation approach, while not impacting fees or penalty caps under a partial aggregation approach (provider QWR would be zero under a partial aggregation approach so it would not be liable for fees and face an £18 million penalty cap whether or not services were associated with separate providers).

3.109 Given that many of the large providers that are likely to be liable to pay fees appear to resemble Scenario 1, and that many smaller services resemble Scenario 2, we do not agree that the full aggregation approach would create additional incentives to create 'complex group structures' with different providers for different services, beyond the incentives that already exist. However, we accept that it is possible that the full aggregation approach could create additional incentives for some large providers of multiple services where total QWR is above the QWR threshold, but where many of the provider's services individually have referable revenues below the QWR threshold. In practice, the strength of this incentive will depend on how the costs of any restructure compared to the likelihood and size of any reduced fees and penalty caps. Overall, we do not consider that the potential for additional incentives in some cases is strong enough to outweigh the other arguments for a full aggregation approach explained above.

3.110 **Whether a partial aggregation approach could create incentives to disaggregate services.** Whilst not explicitly raised by respondents, we have also considered whether full and partial aggregation could affect how providers determine their regulated services. We consider that a partial aggregation approach could incentivise providers to seek to disaggregate their services to minimise their QWR (i.e. framing services such that service QWR is under threshold), whereas the full aggregation model offers no such incentive as all regulated services contribute to QWR. As explained above, we consider it is more proportionate, and results in fairer outcomes, to ensure that providers with similar levels of referable revenue face comparable penalty caps and fee liabilities.

3.111 **Whether a full aggregation approach could reduce the incentive to introduce new regulated services in the UK and/or maintain smaller regulated services in the UK.** We recognise that the launch of a new regulated service in the UK could result in fee liability for a provider which already has significant global revenues. However, given the size of potential fees is likely to be relatively low,[114] we do not consider the possibility of paying fees would represent a material deterrent to long-term growth and investment in the UK.

[114] We anticipate this to be in the order of 0.02 – 0.03% - see chapter 7 for more details

3.112 One respondent gave the following example of a provider with two services to illustrate their concern.[115] Service 1 generates over £250 million in global revenue, £50 million of which is referable to the UK. The provider is considering launching a second service in the UK which already has £400 million in worldwide revenue. The introduction of Service 2 will increase the provider's QWR by £400 million. The respondent considered that the risk of immediately inflated fees may discourage the provider from launching Service 2.

3.113 In this example, the additional fee liability could be in the region of £80,000 - £120,000 per annum. As the charging year lags the qualifying period by around two years, this fee would not be payable immediately. We do not consider a fee this size would be sufficiently material to discourage the launch of a new service in this example. A service which is already generating £400 million worldwide might be expected to have a reasonable chance of success in the UK, and we would not expect a potential fee differential of £80,000 - £120,000 to be a significant deterrent.

3.114 More generally, we recognise that providers whose QWR is lower than the threshold could have somewhat weakened incentives to grow, as they would be required to pay a fee of approximately £50,000 - £75,000 once they reach the recommended threshold of £250 million. However, we consider the size of potential fees is not large enough to represent a material deterrent to long-term growth. Ultimately there needs to be a certain point beyond which providers are liable to pay fees. We consider this a general factor to be considered for any growing business and part of the cost of delivering online services in the UK above a certain revenue threshold.

Case study 3.1

A provider identifies that their social media platform and file sharing platform both constitute a regulated service under the Act.

The provider calculates that their social media platform generates £200 million of QWR during the qualifying period and their file-sharing service generates £150 million of QWR over the same period.

The provider's QWR is £350 million during the qualifying period. This single combined QWR figure should be considered against the QWR threshold figure to determine liability for fees.

iv) Apportionment of revenue to regulated services

Our Proposals

3.115 In our consultation we said that sometimes a provider will be able to separately identify revenue arising in connection with the provision of a regulated service, but sometimes revenue will arise in connection with both regulated and unregulated services and will therefore need to be apportioned to the regulated service.

3.116 Where an apportionment is required, we proposed that providers should use a just and reasonable approach.

[115] techUK, page 3.

3.117 We said there may be a number of just and reasonable approaches that could be taken depending on the information available to the provider. However, our expectation was that a just and reasonable apportionment will be one where the amount apportioned to the regulated service reasonably reflects the relative contribution of the regulated service to the revenue in question.

Stakeholder responses

3.118 No respondents disagreed that it may be necessary to apportion revenue to regulated services.

3.119 Some respondents agreed there could be a number of just and reasonable approaches; that Ofcom should not mandate how apportionment is carried out; and that providers should have flexibility to determine what is just and reasonable in the context of their service and revenue streams.[116]

3.120 However, other respondents requested more guidance on what a just and reasonable approach could mean in practice.[117] For example, one respondent highlighted some of the challenges that video games providers could face and requested industry specific guidance on how to apportion revenues. It said many relevant parts of regulated services may not be directly monetised and asked how video games providers should apportion revenue derived from in-game purchases or advertising that can be used in, or displayed on, regulated and unregulated parts of a game. They did not consider it was appropriate to give providers the flexibility to apportion revenues as it could result in similar providers taking inconsistent approaches.[118] Other examples included challenges around how to apportion subscription revenues that cover regulated and unregulated services.

3.121 Some providers considered that there could be a significant administrative burden associated with apportioning revenue, especially for providers of multiple services. Suggestions for reducing the burden included:

i) Allowing providers to apportion revenue based on the maximum level of disaggregation that they report in their financial records.[119]

ii) Removing the requirement to apportion revenue in some cases, such as where the relevant part of a regulated service represents an ancillary or de minimis feature.[120]

3.122 Two respondents said it was important to verify that apportionment is appropriate. One respondent said we should request providers to supply evidence to support their apportionment approach[121] and another thought a provider's existing auditor could confirm that QWR has been determined on a just and reasonable basis.[122]

[116] Google, page 9; [✂].
[117] UKIE, page 3; Uber, page 2; techUK, pages 6-7; [✂].
[118] UKIE, page 8.
[119] Microsoft response to the October 2024 consultation (Microsoft), page 1; LinkedIn response to the October 2024 consultation (LinkedIn), page 1. Respondents noted that this was the phrasing used in our information requests.
[120] [✂]; techUK, page 7.
[121] MCF, page 1.
[122] [✂].

Our decision

3.123 We set out above our decision to define referable revenue by reference to worldwide revenues associated with the relevant parts of a regulated service, and that a provider's QWR must include referable revenue for all its regulated services.

3.124 While a provider will sometimes be able to separately identify revenue arising in connection with the provision of relevant parts of regulated services, it will sometimes need to apportion revenue to the relevant parts. This could be from other parts of the regulated service or from non-regulated services.

3.125 No respondents disagreed in principle with our proposals, and we have decided that it is appropriate to require providers to use a just and reasonable approach when apportionment is required. We would expect the apportionment methodology used to reflect the relative contribution of the relevant parts of the regulated service to the revenue in question.

3.126 We recognise that more guidance on what 'just and reasonable' could mean in practice would be helpful. We intend to consult on QWR guidance in Q3 of 2025, which will include some illustrative case studies to help providers think about how they could apportion revenues to relevant parts of regulated service in line with the just and reasonable requirement. To inform the development of the QWR guidance and ensure that we have considered a range of providers' needs, we will engage with potential fee-payers through a discussion forum. The final guidance will be published before the first notification window opens, and we intend to keep the guidance under review and update it, where appropriate, based on approaches we see providers taking.

3.127 However, we do not think it would be appropriate or practicable for us to tell providers exactly how they should apportion revenues. Differences between providers would make it difficult to require them to adopt specific approaches to apportionment, such as differences in terms of the nature of the relevant parts of regulated services, how regulated services are monetised, the relative contribution of the relevant parts to the revenue in question, and the data available to the provider on which to base an apportionment. As a result, we think providers should have the flexibility to develop apportionment approaches that take account of their specific circumstances. We provide an illustrative example in case study 3.2 below.

3.128 While this flexibility could result in providers taking different approaches to apportionment, providers will be expected to explain and justify how revenue has been apportioned to relevant parts of regulated services to support their QWR estimates. We expand on this in chapter 8 on Notification.

3.129 We also recognise that for some providers, particularly providers of multiple regulated services, the apportionment exercise, at least initially, could require an upfront cost in terms of time and resource to put in place a mechanism to identify revenues that could be referable to relevant parts of regulated services and establish a suitable apportionment approach. Once established, we would expect the ongoing cost and effort to reduce. It is possible that our apportionment guidance will help reduce some of this upfront cost, but we think some upfront cost is unavoidable. We consider it essential that fees are linked to the level of revenue referable to the relevant parts of regulated services for those fees to be proportionate.

3.130 We explained above in subsection (i) that we do not consider it would be appropriate to exclude de minimis revenues from the definition of QWR. We recognise that it would be reasonable for providers to take a proportionate approach to apportioning revenues to relevant parts of regulated services which are ancillary features to a broader service, to avoid the exercise being unnecessarily burdensome. What is proportionate will depend on the provider and the information available to them. Case study 3.2 below provides some examples of approaches to apportionment that could be appropriate.

3.131 Two respondents suggested allowing providers to apportion revenue based on the maximum level of disaggregation that they report in their financial records.[123] To the extent the respondents are asking if they could apportion the categories of revenue that they routinely record and use for internal management purposes, we agree this would be a reasonable approach. For example, some providers may separately account for advertising, sponsorship, subscription revenues, etc, while others may account for categories of revenue in greater or lesser detail. Even where a provider internally uses multiple categories of revenue, it may be appropriate to adopt a single methodology to apportion these to relevant parts of a regulated service rather than a separate approach for each category of revenue. As above, we would expect an explanation of the approach as part of the notification submission, on which further detail is provided in chapter 8.

3.132 We do not consider it would be proportionate or practicable to require the provider's auditor to confirm it has calculated QWR on a just and reasonable basis. Based on our experience in other regulated sectors, we do not think this is the type of assurance an auditor would be able to provide, and even if it could, it could be a time consuming and costly exercise which would add to the administrative burden on providers. We could potentially require providers to explain what assurance they have undertaken on the QWR notified to us. As the QWR notification must be accompanied by a declaration from a senior manager affirming the accuracy and completeness of the information provided, we would expect providers to carry out some internal assurance over the QWR calculations and approach. As an example, larger providers with more complex approaches to apportionment may consider it appropriate to commission a third party to undertake 'agreed upon procedures' to provide assurance that they have calculated QWR in line with the approach set out in their notification.

Case study 3.2[124]

An online music service includes the functionality for users to share playlists and discuss music with friends (chat service). The music service is a regulated service by virtue of the user-to-user functionality of the chat service. The chat service is a relevant part of the regulated service as it is part of the service on which users can encounter regulated user-generated content. Provider QWR will therefore be estimated by reference to the revenue referable to the relevant part of the regulated service. i.e. the chat service.

The music service generates revenue from subscriptions which give access to the music service and the associated chat service, and from advertising revenue.

The provider can separately identify the advertising revenue that is shown in the chat service and on other parts of the music service, as it knows where advertisements are

[123] Microsoft, page 1; LinkedIn, page 1.

[124] Note this case study has been updated since the consultation to provide greater clarity on the interpretation of apportionment in the context of revenue referable to the relevant parts of the regulated service.

displayed. However, subscription revenues need to be apportioned as the provider cannot identify which subscription revenues arise in connection to the chat service and which revenues arise due to other elements of the music service. The provider has the following data available:

• The proportion of time users spent on the chat service in the relevant period.

• The proportion of advertising revenue related to adverts displayed in the chat service in the relevant period.

• The proportion of the provider's operating costs related to maintaining the chat service in the relevant period.

In this example, it may not be appropriate to apportion subscription revenues to the chat service on the basis of the relative cost of maintaining this service, as this may not reflect the relative contribution of the chat service to the subscription revenue of the music service overall, especially given the other information available (such as the proportion of advertising revenue derived from the chat service).

The provider could reasonably consider apportioning subscription revenues using the proportion of time users spent on the chat service, as it reflects what subscribers are using the site for. It could also apportion the proportion of advertising revenue derived from the chat service, as it could reflect the relative value of the chat service using advertising revenue as a proxy.

v) Inclusion of revenues received by other group undertakings

Our Proposals

3.133 Where a provider is a member of a group, section 85(3) of the Act enables us to make provision to include in the determination of its QWR, the QWR of another group undertaking that receives any amount referable to the provider's regulated service(s). For these purposes, an undertaking may be a company, a partnership or an unincorporated association carrying on a trade or business with or without a view to profit.[125] A 'group' means a parent undertaking and its subsidiary undertakings.[126,127]

3.134 We proposed to include such provisions in our QWR Regulations to cater for circumstances where the entity providing a regulated service is not the same entity receiving and accounting for all (or, in some cases, any) of the QWR relating to that regulated service. For example, because the commercial/contractual relationship in respect of a relevant revenue stream is between revenue payers and another group company, rather than with the corporate entity that is the provider of the regulated service.

3.135 We may also include provision that in the case of an entity that is a group undertaking in relation to a provider for part (not all) of a qualifying period,[128] only amounts relating to the

[125] See section 1161(1) of the Companies Act 2006.
[126] The expressions 'undertaking', 'parent undertaking' and 'subsidiary undertaking' are defined in sections 1161 and 1162 of the Companies Act 2006.
[127] See section 1161(5) of the Companies Act 2006. See also section 1162 of the Companies Act 2006 which explains the circumstances in which a company will be considered a parent undertaking or member of another undertaking.
[128] Section 85(5) of the Act.

part of the qualifying period for which the entity was a group undertaking may be brought into account in determining the entity's QWR.

3.136 We proposed the inclusion of such a provision in the QWR Regulations in acknowledgement of the potential for changes to group structures arising from transactions such as mergers and acquisitions or other organisational changes. A provider may become part of a group during a qualifying period or be divested from a group during a qualifying period. In those circumstances, we proposed that a provider would need to calculate its QWR taking account of any such organisational changes (i.e. it should be clear that it need only take account of revenues it receives during the part of the charging year where it is a member of the same group).

Stakeholder responses

3.137 One respondent agreed with our proposal regarding group revenues.[129]

3.138 Another understood the logic of our proposal but considered it could lead to 'unintended consequences' especially for multinational groups with varied structures and should therefore be avoided.[130]

3.139 A third said that each regulated service should be assessed based on its own revenue, rather than the revenue of a parent company or group entities. It said that including non-referable revenue from parent companies or group entities in the fee calculation could unfairly inflate fees or penalties.[131]

Our decision

3.140 Our proposal provisions took account of the range of business structures and accounting arrangements that apply to providers within the Act's scope.

3.141 It is not clear what 'unintended consequences' could result from the provisions. The intention is not to bring non-referable revenue into account for the definition of QWR for the fees regime[132] but to ensure that all revenue referable to relevant parts of a regulated service is included in a provider's QWR, regardless of whether that revenue is accounted for by the provider itself or another entity in the same group. We consider that this will help avoid differences in provider QWR resulting from different approaches to accounting for revenue within groups, resulting in a fairer fee regime and approach to determining penalty caps. Case study 3.3 below sets out an example of how a provider should consider whether revenues from other group companies are referable to the regulated service. .

Case study 3.3

A global search engine provider has a large source of revenue from advertising on its platform, where advertisers bid to display brief advertisements, service offerings, product listings, and videos to users of the search engine. The provider offers the advertising service in conjunction with its search engine on a worldwide basis.

[129] MCF, pages 1-2.
[130] Hammy Media Ltd, page 2.
[131] X, pages 3-4.
[132] We note in the context of calculating the maximum penalty cap where we have found joint and several liability for violations of the Act, we will define QWR as the total of all worldwide revenues (including non-referable revenue) received by the providers and its group undertakings. Further detail is outlined in chapter 6.

For administrative, accounting and tax purposes, the provider has a number of subsidiary companies in different geographic locations for business development, sales, and marketing purposes.

This means in practice, whilst an advertiser or their intermediary will place their advertising requirements via the provider's platform, other aspects such as post advertising evaluation, finance and billing are undertaken by a separate subsidiary.

In its determination of QWR, the provider should include revenues from the provision of advertising on the search engine platform, i.e. regardless of which group undertaking receives the revenues in question.

vi) Approach to currency conversion

Our Proposals

3.142 Our advice on the QWR threshold figure is stated in pounds sterling (GBP).

3.143 Providers will often record or account for revenue in currencies other than GBP, e.g. USD or EUR. Consequently, if an amount that is relevant for determining QWR is expressed in a currency other than GBP, providers will need to convert that amount into GBP when determining if they are liable to pay fees and their final QWR figure to notify to Ofcom.

3.144 We proposed that providers convert revenue to GBP using a just and reasonable exchange rate.

Stakeholder responses

3.145 No stakeholders commented on our proposal.

Our decision

3.146 We have decided to adopt our proposal that providers convert revenue to GBP using a just and reasonable exchange rate.

3.147 In most cases, we expect this will mean using an average exchange rate over the qualifying period from a source such as a central bank, such as the Bank of England.[133] For example, a provider might calculate the amount relevant for determining QWR for a qualifying period is $300 million (USD). If the average USD to pound sterling (GBP) exchange rate for that period is 0.75, the provider's QWR in pound sterling would be £225 million.

3.148 We do not consider it is appropriate to specify a particular source for the exchange rate to be used as it might not be the case that any one given source would be appropriate to cover the range of circumstances where currency conversions might need to be made. For example the Bank of England does not publish exchange rates for all currencies.

3.149 Our decision is reflected in our QWR Regulations.

[133] Exchange rates published by the Bank of England are available here: Exchange Rates.

vii) Relevant period for assessing QWR for fees and penalties

3.150 The requirement to pay fees applies on the basis of the provider's QWR in the qualifying period[134] – in other words, the period over which QWR needs to be calculated. The qualifying period must be defined in relation to a charging year, where a charging year runs from 1 April to 31 March each year.[135] Our consultation made proposals in relation to the definition of qualifying period.

3.151 As noted above, the Act specifies that, in relation to maximum penalties, the relevant period for assessing QWR is the most recent complete accounting period of the provider of the regulated service.[136]

Our Proposals

3.152 We proposed that the qualifying period for a charging year should be the second calendar year preceding the one within which the charging year begins, i.e. the calendar year two years prior to the calendar year within which the charging year begins.

3.153 We gave the example that, if you are ascertaining the qualifying period in respect of the charging year running from 1 April 2026 to 31 March 2027, the qualifying period would be 1 January 2024 to 31 December 2024.

3.154 We proposed to define qualifying period this way because:

i) Given that financial periods can vary, we think defining qualifying period by reference to calendar years is preferable as it will allow us to set fees by reference to revenue generated by different providers over the same time period, which will secure consistency.

ii) Companies prepare annual financial statements and will need time to prepare and review their financial statements after the relevant financial period has ended. Therefore, asking providers to calculate their QWR over a calendar year that has ended two years prior to the start of the relevant charging year – as opposed to, for example, the year immediately prior to the relevant charging year – should allow time for a provider's QWR to be based, where possible, on the provider's annual financial statements which should be available for that financial period by the point the relevant charging year starts.

3.155 This is also consistent with our approach to qualifying periods in other sectors we regulate, such as broadcasting and telecoms networks.

Stakeholder responses

3.156 This was generally a non-contentious proposal, with three respondents[137] expressing support and most choosing not to comment.

[134] Section 84(2)(a) of the Act.
[135] Section 90 of the Act.
[136] Paragraph 4(1)(b) of Schedule 13 of the Act; For the relevant provision on joint and several liability, see paragraph 5(4).
[137] MCF, page 1; Hammy Media Ltd, page 2; Vinted, page 4.

3.157 One respondent said that our proposed definition of the qualifying period provided some consistency in terms of financial data but highlighted that revenue in the video game industry can fluctuate significantly.[138]

3.158 One respondent said it was not clear what approach providers should take with services that may move out of scope during the qualifying period.[139]

Our decision

3.159 Given the limited but generally supportive responses for our proposal we have decided to adopt our proposal and define the qualifying period for a charging year as the second calendar year preceding the one within which the charging year begins, i.e. the calendar year two years prior to the calendar year within which the charging year begins.

3.160 Our decision is reflected in our QWR Regulations.

3.161 Where the relevant part of a regulated service is not available in the UK for part of a qualifying period (e.g. because it only became available part way through the qualifying period or it ceased to exist during the qualifying period), we would expect the provider to include in QWR only those revenues which arose during the part of the qualifying period in which it did provide the relevant part of the regulated service in the UK.

3.162 In relation to concerns about fluctuating revenues in the video game industry, if revenue is higher in one qualifying period and lower in another, this will be reflected in the provider's QWR and its liability for fees in the relevant charging years.

[138] UKIE, pages 9-10.
[139] [≫].

4. QWR threshold

Summary

What is this chapter about?

In this chapter, we set out our advice to the Secretary of State on the QWR threshold, at or above which providers of regulated services will be required to pay online safety fees, unless they're exempt from fees duties.

What have we decided?

As proposed in the consultation, we are advising the Secretary of State to set a QWR threshold figure of £250 million but consider that any threshold figure within a £200 million to £500 million range could be appropriate.

Why are we making these decisions?

In our advice to the Secretary of State on the QWR threshold, we have considered all available evidence and consultation responses. Taking account of this, we believe our original proposed threshold strikes the right balance between proportionality and workability, spreads the fee burden across a range of providers and serves the objective of limiting the impact on SMEs.

Introduction

4.1 The Act requires us to advise the Secretary of State on where to set the QWR threshold figure at or above which providers of regulated services will be required to pay fees.[140] The Secretary of State will then make regulations that will set the QWR threshold figure, which will be laid before Parliament. In this chapter we set out our advice on the QWR threshold.

4.2 The chapter is structured as follows. In each section we set out our proposals, stakeholder responses and our decisions.

i) Our objectives for setting the QWR threshold.

i) The evidence base informing our advice.

ii) Recommended QWR threshold.

Our objectives for setting the QWR threshold

Our Proposals

4.3 As set out in chapter 2, we have had regard to the Secretary of State's principles when developing our fees regime.

4.4 In considering a QWR threshold, we proposed that the principle of proportionality was particularly relevant, as well as the need to ensure overall workability.[141] In the

[140] Section 86(2) of the Act.

[141] In relation to the principles of transparency and stability, we said that once the Secretary of State has determined the QWR threshold figure, this will remain in place until the Secretary of State decides to review it.

consultation, we proposed that the principles of proportionality and workability supported the following objectives:

i) **Limit the impact on SMEs,** consistent with the Secretary of State's Guidance.
ii) **Reduce compliance burdens and administrative complexity for providers**. The scope of the Act is broad and we estimate that it is possible more than 100,000 services could be in scope.[142] We said it would not be proportionate to levy fees on a very large number of service providers, as this would create significant compliance burdens for many relatively small providers and would also create significant administrative complexity which would ultimately increase the costs of regulation.
iii) **Ensure fees are paid by a reasonable number and range of providers**. Given the breadth of scope of the Act, we thought it would be proportionate to avoid placing all of the burden of paying fees on the very largest providers only, and a reasonable number of providers of regulated services should in principle be liable to pay fees.

4.5 In the consultation, we proposed to advise the Secretary of State to set the QWR threshold at or above which providers of regulated services will be required to pay fees, at £250 million. We considered that any threshold figure within a £200 million to £500 million range could be appropriate

4.6 We explained that setting the QWR threshold figure will ultimately be a matter of judgement for the Secretary of State to determine, and there are likely to be some trade-offs between these objectives.

Stakeholder responses

4.7 Several respondents welcomed the objectives to limit the impact on SMEs and reduce administrative complexity.[143]

4.8 One respondent said it did not agree that SMEs should be out of scope for fees. The respondent considered that fees are a necessary cost of doing business in the UK and that compliance burdens were not a significant concern.[144]

4.9 Other comments focused on which objectives to place weight on and the proposed threshold figure, which we consider further below.

Our decision

4.10 We have decided to adopt the objectives set out above and in our consultation. We consider it is appropriate to limit the impact on SMEs, consistent with the Secretary of State's guidance. While we agree that fees are a necessary cost of providing online services in scope of the Act and that a reasonable number and range of providers should pay fees, we do not consider it would be practicable for large numbers of providers to pay fees. The proportion of total fees recovered from small providers would be relatively low but could significantly increase the costs of administering the fee regime.

4.11 We explain in paragraph 4.47 how we have taken account of these objectives in advising the Secretary of State on the QWR threshold.

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[142] See for example Statement : Protecting people from illegal harms online - overview of regulated services
[143] Hammy Media Ltd, page 3; [✂]; Mid-Size Platform Group (MSPG), page 3.
[144] MCF, page 2.

Evidence base informing our advice

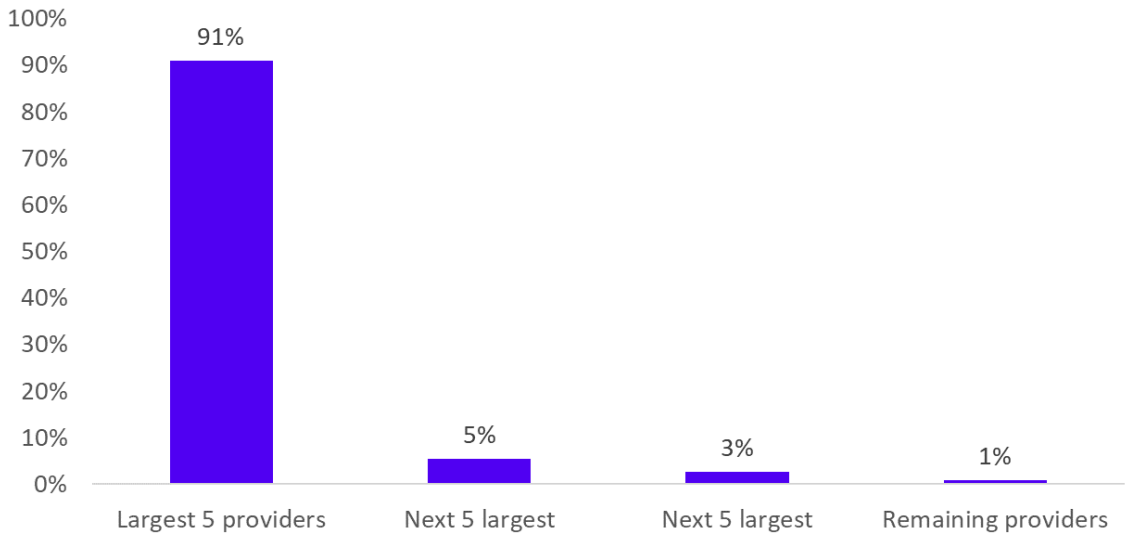
Evidence set out in the consultation

4.12 In the consultation we explained that, to inform our proposals on the QWR threshold and tariff structure, we sent information requests to 30 companies that could be providing regulated services, and as a result we had estimates of worldwide QWR for 27 providers of regulated services.[145]

4.13 Based on this information, we estimated that total worldwide QWR for companies responding to our information requests in financial years ending in 2023 was between £350 billion and £400 billion.[146]

4.14 Figure 4.1 illustrates the distribution of this QWR by provider in their financial years ending in 2023. It illustrates that over 90% of QWR was represented by the largest five providers in our sample.

Figure 4.1: Distribution of estimated QWR by provider in our sample

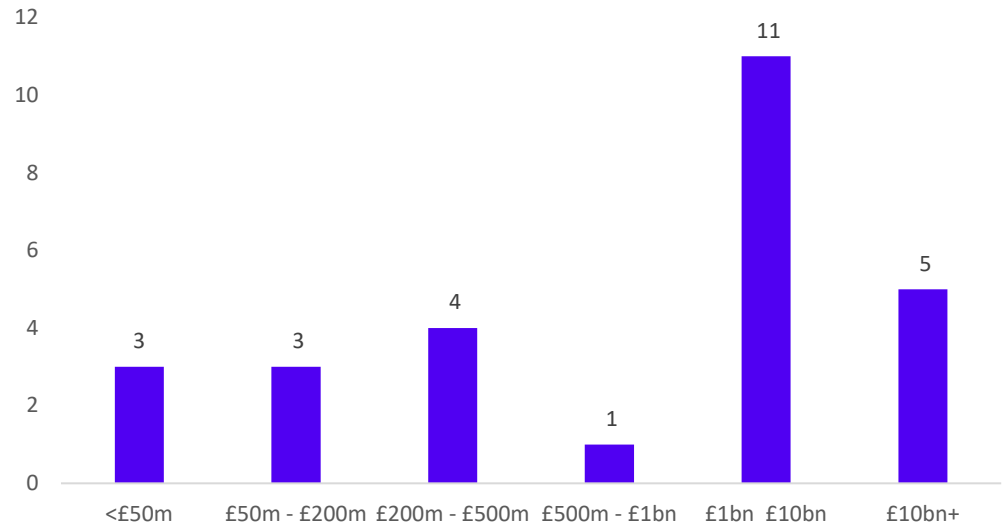


Source: Ofcom analysis of responses to information requests. Figures based on revenues in financial year ending in 2023.

4.15 Figure 4.2 below illustrates the distribution of estimated QWR by revenue bracket in financial years ending in 2023 for the providers in our sample. It illustrates that around 10% of providers responding to our information requests had estimated QWR below £50 million, around 30% up to £1 billion and around 60% over £1 billion. However, as our requests for information were typically targeted at larger providers, this sample is primarily representative of providers with higher QWR. When considering all providers of regulated services, we would expect the majority of providers to appear on the left-hand side of the chart (i.e. with revenues of less than £50 million).[147]

Figure 4.2: Distribution of estimated QWR by revenue bracket

[145] See Annex 6 for a summary of the revenue data obtained from information requests.
[146] See Annex 6.
[147] See Annex 6.



Source: Ofcom analysis of responses to information requests. Figures based on revenues in financial year ending in 2023.

4.16 As one of the objectives of the QWR threshold is to limit the impact on SMEs, we also considered evidence on what revenue thresholds are typically associated with SMEs. We said that there did not appear to be a single definition of revenue associated with SMEs, but the following reference points suggest revenue thresholds of £25 million to £50 million are typically associated with SMEs:

i) In the Companies Act 2006, large companies are defined as those generating more than £54 million per annum (alongside other financial metrics).[148]
ii) For UK Government procurement activities, the revenue threshold for medium companies is €50 million Euros (c. £43 million).[149]
iii) The coronavirus business interruption loan scheme applied to small and medium sized businesses with revenues up to £45 million.[150]
iv) The Digital Services Tax (DST)[151] introduced in the Finance Act 2020 applies to firms with digital services revenues of more than £25 million in UK (and more than £500 million globally).[152] The intention was that the DST would apply to 'large' digital businesses.[153]

Stakeholder responses

4.17 One respondent[154] said that, given thousands of providers could fall within the scope of the Act, relying on responses to information requests sent to 30 providers was inadequate. It considered this could raise doubts about the claim that the largest five providers account

[148] Other criteria relate to value of assets and number of employees. See sections 465-467 Companies Act 2006. Any companies that do not meet the criteria for small, medium or micro entities are large companies. The threshold of £54m came into effect on 6 April 2025. The previous threshold was £36m.
[149] BEIS small and medium enterprises (SMEs) action plan: 2022 to 2025, January 2023.
[150] Apply for the Coronavirus Business Interruption Loan Scheme, March 2020.
[151] The DST is levied on groups that provide the following 'digital services activity' in the UK: an internet search engine, a social media service and an online marketplace.
[152] Section 46, Finance Act 2020.
[153] For example, see page 105 of the explanatory notes on the Finance Bill 2020 and section 1, paragraph 6 of the Committee of Public Accounts report The Digital Services Tax (April 2023).
[154] UKIE, page 2

for 90% of QWR.[155] Another commented that the evidence base in our consultation was inadequate to justify our threshold proposal.[156]

Our response

4.18 Annex 6 summarises the revenue estimates obtained from responses to our information request exercise. The information request was sent to 30 companies, including providers of services with large UK audiences and some smaller providers which we thought could be in scope of the Act. We considered that the sample represented a reasonable cross-section of different types of providers and services, though it did not include companies from all sectors that could be in scope of the Act. The information request sought information on the corporate structure of the companies, qualitative information on revenue streams and business models, company assessments of regulated services in scope of the Act and the identity of the providers of those services, and quantitative information on UK and worldwide revenues broken down by service. The information requested was therefore wide-ranging and it was a time-consuming exercise for us and stakeholders receiving the information request. We believe that revenue estimates from 27 providers is a reasonable and proportionate sample size sufficient to inform our decision on the appropriate level of the QWR threshold and understand the potential QWR of providers who might sit above the QWR threshold. The purpose was not to sample all providers of services within scope of the Act.

4.19 The purpose of our public consultation was also to elicit further evidence and views from stakeholders that had not necessarily been a part of our information request exercise. While we received several views on our proposed QWR threshold (set out below), we did not receive additional estimates of the likely levels of QWR that could be associated with providers that were not part of our information request exercise.

4.20 As set out in Annex 6, we have carried out some additional analysis to help inform our estimate of the number of providers that could be liable to pay fees, given the recommended QWR threshold. However, while this analysis potentially suggests up to 60 providers could be liable to pay fees, we did not have access to additional information to estimate provider QWR, which could be used to supplement the evidence from information request responses.

4.21 Our information request exercise indicated that the largest 5 providers represented around 90% of the total QWR associated with the 27 providers for which we had QWR estimates. The point of this observation was that the very largest providers are likely to pay most of our fees under any reasonable assessment of the QWR threshold.[157] We recognise that the percentage could be lower if other providers potentially liable to pay fees (which were not part of our information request exercise) have significant levels of QWR, but we consider the largest 5 providers are likely to pay most of our fees due to the relative size of their QWR.[158]

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[155] UKIE, page 2.
[156] Meta, page 7.
[157] We also noted in our consultation that this distribution was comparable to the percentage of revenue represented by the largest payers of the Digital Services Tax. A 2022 National Audit Office report '[Investigation into the Digital Services Tax]' found that 90% of DST revenues in 2020/21 were paid by five business groups (see paragraph 7).
[158] For example, we estimated that 20 providers that were part of our information request exercise could have QWR above the proposed £250 million threshold, with a total QWR across these providers of £350 billion - £400 billion. If a further 40

Recommended QWR threshold

Our Proposals

4.22 We considered a QWR threshold in the range of £200 million to £500 million would limit the impact on SMEs and would be consistent with our objectives to reduce compliance burdens and administrative complexity, and ensure fees are paid by a reasonable number and range of providers.

4.23 Within this range, we thought a QWR threshold of £250 million would strike a reasonable balance between our objectives. We therefore proposed to advise the Secretary of State to set the QWR threshold at £250 million.

Stakeholder responses

4.24 Stakeholder comments centred on the following themes:

i) The QWR threshold should be lower than our proposal.

ii) The QWR threshold should be higher than our proposal.

iii) Thresholds other than revenue should be used as an entry point to fees.

4.25 Some stakeholders proposed alternative thresholds if we decided to define QWR using the UK revenue approach.[159] We explain in chapter 3 why we have decided to define QWR using the worldwide revenue approach.

The QWR threshold should be lower than our proposal

4.26 One respondent suggested lowering the threshold range to £65 million to £100 million, arguing that this would still capture 'large companies' and protect SMEs.[160] Another respondent suggested the threshold should be low enough to include SMEs.[161]

4.27 Arguments for a lower threshold included:

i) It would result in fees being paid by a more reasonable number and range of providers, without affecting workability of the regime for Ofcom.[162]

ii) More than 40 providers should pay fees and Ofcom already manages large numbers of fee payers in other sectors.[163]

iii) It would encourage more companies to comply with the Act as Ofcom would have annual contact with the provider.[164]

iv) The evidence base set out in the consultation does not indicate there would be an unmanageable number of providers below a £200 million threshold.[165]

providers were liable to pay fees, total QWR would be at least £10 billion higher (40 x £250 million), but this would not materially affect the proportion of total QWR represented by the largest 5 providers. Even if the further providers had QWR of £1 billion each, the largest 5 providers are still likely to represent over 80% of total QWR.

[159] Hammy Media Ltd, page 3-4; Vinted, page 4.

[160] Meta, pages 36.

[161] MCF, page 2.

[162] Meta, page 6; [✂].

[163] Meta, page 5.

[164] Meta, page 5.

[165] Meta, page 7.

The QWR threshold should be higher than our proposal

4.28 Two respondents suggested increasing the threshold to £500 million.[166]

4.29 Arguments for a higher threshold included:

i) It would reduce the regulatory burden on smaller firms and encourage investment in the UK video games market.[167]

ii) It would avoid an impact on 'digital SMEs'.[168]

iii) That the largest providers pose the highest risk of harm to UK users so it is proportionate that they bear a higher fee burden.[169]

Thresholds other than revenue should be used as an entry point to fees

4.30 One respondent suggested monthly active users (MAU) should be used as a threshold alongside QWR, such that if a provider exceeded the QWR threshold or MAU threshold, they would be liable for fees.[170]

4.31 Another respondent suggested that 'small but risky' services should pay fees even if they are below the QWR threshold.[171]

4.32 A third suggested the threshold should be set by reference to profit as revenue-based thresholds would disproportionately affect high revenue and low profit services.[172] They advised that we should not assume providers with the required threshold of £250 million would have the means to pay.

Our response and recommendation

The QWR threshold should be higher than £50 million

4.33 Based on the evidence presented above, we consider a QWR threshold that limits the impact on SMEs would be £50 million or higher. Consistent with our consultation position our assessment is that setting a QWR threshold as low as £50 million would not be proportionate.

4.34 While a threshold this low could protect SMEs, it could result in a large number of providers paying fees. We are not able to estimate a precise number, but given we estimate perhaps up to 60 providers could pay fees if the threshold was £250 million,[173] the number could be in the hundreds. This could increase the administrative and financial burden on smaller providers,[174] which may be less able to bear the associated costs compared to larger providers, while also increasing our costs of administering the fee regime.[175]

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[166] [✂]; UKIE, page 12.
[167] UKIE , pages 11 - 12.
[168] [✂].
[169] [✂].
[170] Meta, page 7.
[171] MCF, page 3.
[172] X, pages 4-5.
[173] See Annex 6.
[174] This would include the costs associated with estimating and notifying us of QWR as well as the fee itself.
[175] See our Impact Assessment in chapter 10 for our analysis of the impact on SMEs.

4.35 In addition to finance processes (e.g. invoicing and bad debt management) our costs of administering the fee regime will include assessing QWR notifications in a provider's initial charging year, preparing and assessing requests for information in subsequent charging years, and identifying and enforcing against providers who have not notified us, notified us of the wrong QWR, or not paid. Many of these costs are likely to increase with the number of providers in scope for fees.

4.36 A threshold this low may also only have a small impact on total QWR (e.g. the £350 billion - £400 billion referenced above) meaning it would not reduce, to any significant extent, the share of fees payable by larger qualifying providers,[176] and the additional fees collected from smaller providers could represent a small percentage of total fees. Further, in future years, a threshold of £50 million may not be sufficient to limit the impact on SMEs, as the revenue associated with SMEs might be expected to increase over time.

4.37 While it could be argued that capturing more providers would help ensure fees are paid by a reasonable number and range of providers, we consider that a higher threshold would also achieve this and help avoid the issues described above, such as the risk of increasing the overall compliance burden for industry and our administrative costs to collect relatively small amounts.

4.38 For these reasons we disagree with respondents who thought the threshold should be low enough to include SMEs. We also disagree with respondents that a lower threshold could encourage more companies to comply with the Act as we would have annual contact with the provider. We consider that providers will be sufficiently incentivised to comply with the Act due to the enforcement regime, whereas the fees regime's objective is solely to fund Ofcom's online safety regulatory activities.

4.39 Further, we already have regular engagement with services through our Supervision function, which has established collaborative relationships with relevant individuals and teams to encourage compliance, share good practice and drive improvements across industry. We are also supporting in-scope services which we do not supervise, through a range of easy-to-use resources and digital tools, along with an ongoing programme of communications and engagement (both directly and through industry bodies).[177]

4.40 Based on the above, we consider an appropriate QWR threshold would be higher than £50 million. How much higher requires us to exercise our regulatory judgement.

We recommend a QWR threshold of £250 million

4.41 In choosing a threshold above £50 million, responses to the consultation – where some respondents argued the threshold should be higher and others lower – illustrate the trade-offs between the objectives set out in this chapter particularly aiming to ensure fees are paid by a reasonable number and range of providers while limiting compliance burdens and administrative complexity.

[176] This is because, as explained in chapter 7, the tariff is dependent on total QWR of providers above the threshold. If total QWR only marginally changes with the addition of more providers, the tariff will not change very much, if at all (depending on how it is rounded) and the amounts paid by larger providers as a result will be largely unchanged.

[177] Guide for services: complying with the Online Safety Act; Ofcom launches digital safety toolkit for online services - Ofcom

4.42 In our consultation we proposed a threshold range of £200 million to £500 million, with a £250 million recommendation within this range, but reasonable arguments can be made for higher and lower thresholds. Ultimately a line must be drawn somewhere.

4.43 In our view, our consultation range of £200 million to £500 million would limit the impact on SMEs and would be consistent with our objectives to reduce compliance burdens and administrative complexity, and ensure fees are paid by a reasonable number and range of providers.

4.44 Evidence collected from responses to our information requests suggest that around 20 providers from our sample could be required to pay fees if the threshold was set in this range. Our information requests were not sent to all providers that could feasibly have QWR above this threshold range, so we expect the number of providers that will need to pay fees to be higher than 20. The additional analysis in Annex 6 and summarised above suggests perhaps up to 60 providers could be liable for fees, which would align with respondent views that more than 40 providers should pay fees, but in practice the exact number of fee payers is uncertain and will only become clear once providers notify their QWR to us.

4.45 We consider that a QWR threshold in this range is likely to capture a reasonable number and range of providers and avoid placing all the burden of paying fees on the largest providers.

4.46 We also think a QWR threshold in this range would avoid disproportionate compliance costs associated with the fee regime and would result in a workable number of providers for us to administer. While there is not a specific number of providers above which we think it would become difficult to manage without increasing our costs, we note that in other unlicenced sectors we recover our costs from 6 postal operators and around 130 networks and services providers.[178]

4.47 Within this range, we think a QWR threshold of £250 million strikes a reasonable balance between our objectives. A threshold figure of £250 million, i.e. towards the lower end of the range, puts slightly more weight on ensuring fees are paid by a reasonable number and range of providers and limiting the potential burden on the largest firms, and slightly less weight on limiting the total number of providers paying fees to reduce compliance burdens and administrative complexity. We consider this would result in a proportionate outcome where a reasonable and manageable number of providers of regulated services are paying fees. We have therefore decided to advise the Secretary of State to set the QWR threshold at £250 million.

Response to other comments

4.48 We do not think the threshold should be as low as £65 million - £100 million as one respondent suggested. Though we agree such a threshold would limit the impact on SMEs and could help ensure fees are paid by a reasonable number and range of providers, in our

[178] See 'liable operators who contribute towards Ofcom fees and CAB fees' (for postal operators) and 'networks and services providers billed for Ofcom's administrative charges' available here: Tariff tables. We tend to levy fees on a higher number of providers in licenced sectors such as broadcasting and spectrum, though in these sectors we know who the licensee is and the fees charged for that licence are generally fixed rather than based on the licensee's revenues. See for example The Wireless Telegraphy (Licence Charges) Regulations 2020 which set out in advance the fees payable by the holders of various wireless telegraphy licences.

view it would risk a disproportionate burden on smaller providers and additional administrative complexity (e.g. by increasing our administrative costs).

4.49 We are not able to estimate how many additional providers could be in scope with a threshold range of £65 million to £100 million compared to £200 million to £500 million, but with thousands of providers potentially in scope of the regime, and likely only tens of providers with QWR above our recommended QWR range, the distribution of QWR is likely to be heavily skewed, meaning relatively small reductions in the QWR threshold could result in large numbers of additional providers becoming liable for fees, even if the proportion of total fees they represent could be small.

4.50 While we want to ensure fees are paid by a reasonable number and range of providers, we consider that, with a threshold at this level, the additional compliance and administrative costs for providers and for us could become disproportionately high, given the relatively small incremental fee amounts being collected from these providers.

4.51 Some respondents considered the threshold should be set at £500 million. This is at the top of our recommended range, so is an option the Secretary of State might want to consider. However, we disagree with some of the arguments made by respondents in favour of a threshold this high.

4.52 In particular:

i) While a higher threshold would reduce the burden on smaller firms, we do not consider our recommended threshold, and approach to fees more generally, would deter investment. We consider that providers above our recommended threshold are likely to have the capacity to pay fees and that the size of potential fees (expected to be in the order of 0.02 – 0.03% of QWR) will not be large enough to represent a material deterrent to investment.

ii) We were not presented with any evidence that 'digital SMEs' should be associated with higher revenue than SMEs more generally. As such we think our recommended threshold meets the objective to limit the impact of the fee regime on SMEs.

iii) We expect larger providers to pay most of our fees given the likely size of their QWR and our approach to setting the tariff (see chapter 7, Approach to Statement of Charging Principles). We do not consider it necessary or proportionate to increase the threshold solely to increase the burden on larger fee payers. We explain in chapter 7 why we do not consider it is appropriate to set fees by reference to the risk of harm.

Whether thresholds other than revenue could be used as an entry point to fees

4.53 The responses summarised in paragraphs 4.30 to 4.32 essentially requested that additional thresholds should be used as an entry point to pay fees, either instead of or alongside revenue.

4.54 Section 83 of the Act is clear that providers must notify us if their QWR is above the QWR threshold and they are not otherwise exempt. Such providers then have a duty to pay fees; the fee must be set by reference to the provider's QWR and any other factors we consider appropriate.

4.55 The entry point for paying fees is therefore QWR and we are not able to take account of other factors when assessing whether a provider is liable to pay fees.

4.56 However, we are able to take account of factors in addition to QWR when considering how to set the tariff. We explain in chapter 7 our decision on how to calculate fees.

Whether different QWR thresholds could be used for different kinds of service

4.57 In the consultation we suggested that it may be possible for the Secretary of State to set different thresholds for different kinds of regulated service.

4.58 However, given that the Act requires that QWR is defined by reference to a provider, and that we have decided QWR should include referable revenue associated with relevant parts of all regulated services from a provider (see chapter 3), we do not consider it is practicable to have different QWR thresholds for different services. This could add complexity to the process of fees calculation both for providers and Ofcom, as the same provider might provide multiple different types of regulated service, each of which would have different QWR thresholds.

Next steps

4.59 We will share our advice with the Secretary of State who will decide where to set the threshold. Once the threshold has been confirmed, DSIT will lay the QWR threshold Statutory Instrument in Parliament

5. Exemptions from the online safety fees regime

Summary

What is this chapter about?

The Act allows us to exempt certain descriptions of providers from the requirement to notify their QWR to Ofcom or pay fees.

What have we decided?

As proposed in the consultation document, if the Secretary of State approves, we will exempt[179] providers whose UK referable revenue is less than £10 million in a qualifying period. We consider it would not be proportionate for such providers to have the same liability to pay fees as those with a relatively large UK presence. We do not consider any further exemptions are objectively justified at this stage.

Why are we making these decisions?

Whilst most respondents supported the principle of a UK referable revenue exemption, most wanted it to be increased beyond £10 million. We recognise the general risk that liability to pay fees in relation to the provision of a service in the UK may impact commercial incentives to enter, invest and remain in the UK, particularly for global providers with lower UK revenues. Having carefully considered responses to our consultation, and whilst recognising that the level of the exemption requires regulatory judgment, we are not persuaded that it is necessary or would be proportionate to increase the exemption beyond £10 million.

The majority of respondents supported, or did not comment on, our view that an exemption for providers of services with public interest objectives or charitable status would not be objectively justified at present. Whilst some called for an exemption for loss-making services, or those with low profitability, we are not persuaded that this is objectively justified.

Introduction

5.1 Under the Act, Ofcom may exempt "particular descriptions of providers of regulated services" from the duty to notify[180] and the duty to pay fees (collectively referred to as 'fees duties'). Ofcom must publish details of any such exemption.

5.2 These exemptions may be provided where Ofcom considers that an exemption for such providers is appropriate, and the Secretary of State approves the exemption.[181]

[179] Ofcom has a discretion, subject to Secretary of State approval, to exempt certain types of providers from fees related duties under section 83(6) of the Act.
[180] Where the charging year in question is not a fee-paying year for a provider but the previous charging year was a fee-paying year, providers have to notify under section 83(1)(b)(ii) of the Act, a 'non-fee-paying year notification'. The exemption discussed here is not relevant in such circumstances as providers in this scenario are not required to pay fees as their QWR is below the threshold.
[181] Section 83(6) of the Act.

5.3 For the avoidance of doubt, a provider that is exempt from fees duties could still face penalties if they are in breach of the Act and in that case the penalty cap will be informed by their QWR irrespective of their exemption from fees.

Proposals

5.4 We recognise that some providers captured by the proposed QWR threshold could have a relatively small UK presence.[182] In the consultation, we therefore proposed a UK revenue exemption of £10 million. That is providers whose UK referable revenue is less than £10 million in a qualifying period would be exempted from the liability to pay fees for that charging year. We explained that the intention of the proposed exemption was to not dampen the incentive for large global providers to enter and invest in the UK market, or to remain in the UK market if they are already present (but only have a small user base and revenue).

5.5 We also explained how providers should calculate their UK referable revenue. We proposed that a provider's UK referable revenue should be calculated in accordance with Parts 1 and 2 of the QWR Regulations, save that:

(i) revenue shall count as UK referable revenue (and, for these purposes, therefore 'referable to a regulated service') only if, and so far as, it arises in connection with the provision of the service to UK users (rather than where revenue arises in connection with the provision of the service to users anywhere in the world outside of the UK); and

(ii) any reference to the provider's 'qualifying worldwide revenue' should be read as referring to the provider's UK referable revenue.

5.6 In the consultation we did not propose any other exemptions. We considered an exemption specifically for providers that operate regulated services for charitable purposes or public interest objectives, and which might be funded wholly or mainly by donations. We explained in the consultation[183] that, if the Secretary of State proceeds to set a QWR threshold figure within our proposed range, providers of this type are unlikely to be liable to pay fees. We noted that we would keep this option under review.

Stakeholder responses

UK referable revenue exemption

5.7 Three respondents commented on our definition of UK referable revenue in the context of the UK referable revenue exemption. Two[184] sought clarity on whether the definition of 'UK referable revenue' included revenue derived from non-UK users, such as revenues from users based in the EU which are recorded under a UK legal entity. Another suggested that revenues related to UK end users should be estimated on a gross basis.[185]

[182] By 'UK presence' in this context, we mean by reference to UK users and/or UK revenues. 'UK user' has the same meaning as 'United Kingdom users' in section 227 of the Act.
[183] Paragraphs 3.3.27-3.3.28.
[184] techUK, page 4; X, page 2.
[185] [≫].

5.8 We received 11[186] responses on the UK referable revenue exemption. While the majority agreed with the need for a UK referable revenue exemption in principle, they advocated for its level to be increased beyond £10 million[187] and/or for the exemption to apply at a 'service', rather than a 'provider', level.[188]

5.9 In support of an increase in the level of the exemption, the following points were made:

i) To be effective, and to address the risk of fees liability dampening the incentive for large global providers to enter, invest or remain in the UK, the £10 million exemption level is too low. One respondent[189] suggested that there is a risk that large worldwide providers with comparatively small UK presence may not enter the UK market as they would not benefit from such a low exemption. They noted that providers whose UK referable revenue was above the threshold may face fees disproportionate compared to their UK presence.

ii) One respondent[190] felt that because service revenue was aggregated at the provider level, the exemption was meaningless, and the exemption should be applied on a service level.

iii) Lack of consistency with the UK's DST and the definition of a SME. One respondent[191] who considered the £10 million exemption to be too low, suggested setting the UK exemption level at the same level as the DST exemption (£25 million). They also suggested the £10 million UK revenue exemption figure is inconsistent with definitions of an SME in other legislation.[192]

5.10 Two respondents[193] also said it was not clear what evidence underlies Ofcom's choice of £10 million as the appropriate threshold to mitigate adverse risks for large global providers with a small UK user base.

5.11 One respondent[194] said the exemption only exempts providers with low absolute revenue in the UK but does not address the risk that large providers with low proportional UK revenue are disproportionately impacted by their fees liability.

Other exemptions

5.12 We received seven responses on other exemptions. Two respondents[195] were in favour of our proposal not to exempt providers operating regulated services for charitable services or public interest objectives, while one respondent appeared to disagree,[196] suggesting that organisations operating in the public interest should be exempt from paying fees. The remaining responses argued for additional exemptions in addition to the UK referable revenue exemption:

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[186] [✂]; Hammy Media Ltd, page 3; Online Travel UK, page 5; Apple, page 6; Meta, page 6-7; MCF, page 2; Big Sister response to the October 2024 consultation (Big Sister), page 2; Google, page 6; [✂]; techUK, pages 2-4; UKIE, pages 12-13.
[187] [✂].
[188] techUK, pages 3-4; UKIE, page 12; [✂].
[189] Online Travel UK, page 5.
[190] UKIE, page 12.
[191] DuckDuckGo, page 4.
[192] DuckDuckGo suggested £25-£50 million were typically associated with SMEs, such as in the approach taken by the Finance Act in relation to the Digital Sales Tax.
[193] Meta, pages 6-7; UKIE, page 12.
[194] Apple, page 5.
[195] MCF, page 2; Hammy Media Ltd page 4.
[196] UK Safer Internet Centre response to the October 2024 consultation (UKSIC), page 5.

i) Two respondents suggested that there should be an additional profit-related exemption. One[197] of these suggested there be an exemption for those providers of regulated services that have high revenue but low profitability, whilst another[198] suggested that loss-making providers should be exempt from fees or permitted to pay lower fees.

ii) One respondent[199] suggested an exemption for providers who do not generate any revenue from their regulated services or where the amount of revenue generated falls below a certain threshold.

iii) One respondent[200] wanted to ensure there are "no unintended consequences from an unduly onerous regime" and that we should consider further exemptions, though did not set out what these might be.

Our reasoning and decisions

UK referable revenue exemption

5.13 We recognise the general risk that liability to pay fees in relation to the provision of a service in the UK may impact commercial incentives to enter, invest and remain in the UK, particularly for global providers with lower UK revenues. We have carefully considered this in reaching our decisions in this statement.

5.14 We note that the QWR threshold set by the Secretary of State should significantly mitigate potential adverse impacts on UK growth and investment from the requirement to pay fees. As explained in chapter 4, we have advised the Secretary of State to set that threshold at a level which means that only the providers of regulated services which have large QWR (i.e. in excess of £200 million, our advice being in favour of a £250 million threshold) will be required to pay fees. Providers with QWR below that threshold, including SMEs, will not be liable to pay fees. Our decision to define QWR by reference to revenues referable to 'relevant parts' of the regulated service (rather than all parts of the regulated service, or even non-regulated services) should also mitigate potential adverse impacts on UK growth and investment from the requirement to pay fees.

5.15 However, in light of our decision to define QWR by reference to worldwide revenue (discussed in chapter 3), our view remains that it is appropriate and proportionate to introduce a UK referable revenue exemption. This means that, even if the provider of one or more regulated services in the UK has QWR exceeding the QWR threshold, it will not be liable to pay fees to Ofcom if its referable revenues from the provision of those services to its UK user base are sufficiently low. This is subject to approval by the Secretary of State.

5.16 Regarding challenge received to the definition of UK referable revenue, our intention is that it will be calculated on the same basis as the provider's QWR (defined in chapter 3), albeit focusing on revenues arising from the provision of 'relevant parts' of the regulated service(s) to the UK user base, rather than worldwide. This means we would not expect UK referable revenues to include revenue derived from non-UK users. This may mean providers will need to apportion revenues between UK users and non-UK users to estimate UK referable revenues. In chapter 3 we also explained that providers should include in QWR

[197] X, page 4-5.
[198] Pinterest response to the October 2024 consultation (Pinterest), page 2.
[199] UKIE, page 13.
[200] Uber, page 2.

amounts they would account for revenue in the ordinary course of business, and this would apply to considerations of whether revenue should be included on a gross or net basis.

5.17 Regarding the need for and level of an exemption, we note that no stakeholders explicitly disagreed with the principle of a UK referable revenue exemption. We proposed that the exemption be set at £10 million in our consultation and those respondents that did challenge our proposals on the exemption were advocating for a higher exemption, rather than no exemption. In the remainder of this section, we therefore consider the rationale for the UK referable revenue exemption and, linked to this, at what level that exemption should be set.

5.18 The level of the UK revenue exemption is ultimately a matter of regulatory judgment. However, for the reasons set out below, our view remains that a £10 million exemption is appropriate and proportionate.

Risk of fee liability resulting in large global providers not entering the UK market at all, or choosing to leave the UK market

5.19 We recognised in our consultation that some providers of regulated services may generate much of their QWR from countries or regions other than the UK and that the revenues associated with the use of regulated services by UK users could therefore be low. We acknowledged that requiring such providers to pay fees by reference to worldwide revenues could dampen their incentive to enter and invest in the UK market, or to remain in the UK market if they are already present.

5.20 In light of this particular concern, we proposed an exemption from the duty to pay fees based on UK referable revenue. This was intended to be a targeted exemption.

5.21 Our view remains that, without a UK referable revenue exemption, fees liability could give rise to disproportionate adverse impacts. In particular, we acknowledge that large global providers that are not present in the UK at all or are present in the UK but with very small revenues (and likely, by extension, a very small user base) may be disincentivised from entering the UK or conversely encouraged to leave the UK if they have significant worldwide revenues that ultimately result in them having to pay fees. This may be particularly applicable if (at the time they are considering entering the UK market) they have no UK user base or UK revenues. For example, if a provider has £250 million of QWR (but no UK referable revenues) and is considering providing or maintaining a regulated service in the UK, we recognise that a potential fee liability of £50,000 - £75,000[201] could factor into their decision making to enter or remain in the UK market (and that such an impact could be disproportionate to our aim of collecting fees from a reasonable range and number of providers).

5.22 However, despite stakeholder submissions, it is not clear to us that a UK referable revenue exemption greater than £10 million is necessary to mitigate the risks that we have identified above.

5.23 Where, for example, a provider has worldwide revenues just exceeding the QWR threshold but only (say) £20 million of UK referable revenues, we consider a potential fee liability of £50,000 - £75,000 to not be a material incentive for that provider to leave the UK market given the size of the indicative fee in relation to the provider's broader revenues. Nor do we

[201] Applying indicative tariff of c0.02 – 0.03% to threshold QWR of £250 million results in expected £50,000 fees.

consider that it would otherwise be disproportionate for that provider to pay the same level of fees as other providers with equivalent worldwide revenues. We recognise that the incentive to leave the UK market may be higher where worldwide revenues are significantly above the QWR threshold (as the fees liability would be greater – for example, £200,000 - £300,000 for a provider with QWR of £1 billion). However, given the significant worldwide revenues of such a provider (and the fact that it provides popular services which are demonstrably able to generate significant revenues in the rest of the world, with the potential for further growth in the UK), we do not consider that an exemption exceeding £10 million is necessary or proportionate.

5.24 Further, we are concerned that increasing the level of the exemption would risk exempting more providers than we intend and consider is necessary from the duty to pay fees. We do not expect an exemption of £10 million would capture any of the 20 large providers responding to our information requests whose worldwide revenues were above £250 million. A higher exemption would start to capture some of these providers, for example an exemption of £25 million could capture two of them based on 2023 data. We do not consider this would be appropriate given the objective of the exemption and that these are providers with relatively large UK user bases. Any exemption applied to such providers would result in a greater fees liability for other providers liable to pay fees, and we are not persuaded that this would be appropriate or proportionate in this particular case.

5.25 Finally, we note that no compelling evidence was provided in response to the consultation which demonstrates that the £10 million threshold is not proportionate to address the risks we have identified above. Whilst some respondents noted that it was unclear whether any potential fee-payers would benefit from this, this does not in our view demonstrate that the exemption would be meaningless and/or that it should be increased. Indeed, the £10 million exemption level was informed by evidence from the RFI (based on 2023 revenue data), which indicated that no respondents to the RFI with QWR above £250 million would likely benefit from it. We consider this is aligned with the objective of the exemption given the RFI respondents with QWR above £250 million were large established providers with significant UK user bases.

Risk of large global providers not introducing new services into the UK market as a result of fees liability

5.26 In response to our consultation, some stakeholders raised a different risk to those considered above. In particular, the risk that – even for providers that have UK referable revenue exceeding £10 million – the potential for fees liability based on aggregated worldwide revenues may disincentivise them from providing new services in the UK. This was particularly the case where those new services already have significant worldwide revenues. Some suggested that any UK referable revenue exemption should be applied on a 'service-by-service' (rather than 'provider') basis for this reason.

5.27 Ofcom's primary duty is to further the interests of citizens and consumers, and we would be concerned if liability to pay fees were to inhibit the range of services available to people in the UK, or to act as a material disincentive from investment and growth in the UK. We have therefore considered whether this is a material risk and, if so, whether a higher UK referable revenue exemption may be proportionate to mitigate it. For the reasons set out below, we are not persuaded that it is.

5.28 We recognise that, in theory, this can be a risk where a large global provider is considering introducing a new regulated service into the UK (particularly one which already has large

worldwide revenues). This risk might be particularly acute for providers which are below the QWR threshold and otherwise not liable to pay fees, and where the introduction of the new service into the UK may ultimately result in that provider having to pay fees for the first time.

5.29 However, we are not persuaded that, for providers which already have UK referable revenues close to (or exceeding) £10 million, the risk of fees being a disincentive to the introduction of further regulated services into the UK is material, or such that it justifies an increase in the level of the UK referable revenue exemption beyond £10 million. The two examples outlined below further support our reasoning.

5.30 In the first example, a provider has a QWR figure slightly below the recommended QWR threshold (£240m versus recommended £250 million threshold) and UK referable revenues slightly below the recommended exemption (£9 million versus recommend £10 million exemption). The provider is not currently liable to pay any fees.

- If that provider were to introduce even a relatively small, regulated service into the UK (with worldwide revenues of, say, £20m) this would be enough to result in its QWR exceeding the QWR threshold. If its UK referable revenues from the new service were to exceed £1m, it would be liable to pay fees for the first time. The fee liability would not immediately impact the provider as the qualifying period is two calendar years preceding the charging year, as explained in chapter 3.
- However, based on our indicative assessment, the fees payable by this provider would likely be around £50,000 - £75,000. This is not significant enough in our view to be a material disincentive from UK investment. We also note that the provider in this case would be at risk of having to pay fees for the first time in any event (even without the introduction of a new service into the UK) if the worldwide and UK referable revenues associated with its existing regulated services were to increase slightly.

5.31 In the second example the same provider is considering introducing a regulated service into the UK which already generates large worldwide revenues (say, £250 million).

- The aggregation of those revenues with its QWR referable to other regulated services will have a significant impact on its QWR, and if its UK referable revenues from the new service exceed £1m,[202] it would no longer benefit from the exemption and therefore be liable to pay fees for the first time.
- However, based on our indicative assessment, even in this case, the fees payable by this provider would likely be around £98,000 - £147,000, based on a QWR of £490m. We are not persuaded, given the significant worldwide revenues associated with that new service (which demonstrate that it is able to generate significant revenues in the rest of the world, and likely also in the UK), that fees liability would be a material disincentive from introducing that service into the UK.

5.32 We also note that, even if we considered fees to present a material risk to the introduction of new services (which we do not for the reasons set out above), an increase to the level of the exemption would not necessarily remove this risk. It is a risk that will exist whatever the level of the UK referable revenue exemption; including if we were to increase the level of

[202] Existing UK referable revenue equals £9 million so an additional £1 million puts it at UK referable revenue threshold.

the UK referable revenue exemption to £25 million as some stakeholders have suggested.[203]

5.33 Finally, whilst some stakeholders raised concerns about the risks to further UK investment if the level of the UK referable revenue exemption were set at £10 million, we note that no compelling evidence was provided in response to the consultation which suggests that this is a real and significant risk.

5.34 In light of the above, we are not persuaded that it is necessary to increase the level of any UK referable revenue exemption to address this risk.

5.35 For completeness, we note that some stakeholders suggested that we should adopt a service-level (rather than provider-level) exemption to paying fees. For the reasons set out above, we are not persuaded that an increase to the UK referable revenue exemption is necessary (or, by extension, that it would be objectively justified to apply this on a service-level basis). It is also not clear to us how this could necessarily be achieved under the current statutory framework.[204] We recognise that one way of achieving the same outcome could be to estimate QWR by only aggregating worldwide revenues from relevant parts of regulated services that exceed a particular UK referable revenue threshold. However, we have explained in chapter 3 why we consider that partial aggregation of only referable revenues for regulated services which exceed the £250 million QWR threshold would not be appropriate or proportionate. We are not persuaded, for similar reasons to those set out in chapter 3 and in light of our proposed UK referable revenue exemption, that it would be appropriate or proportionate to only aggregate referable revenues for regulated services which exceed a particular UK referable revenue exemption.

Proportionality of a relative UK referable revenue exemption

5.36 In response to our consultation, one stakeholder suggested that an "absolute" UK referable revenue exemption is not sufficient and that it would be more proportionate for Ofcom to implement a "relative" exemption. Put simply, we understand this would mean the level of the exemption varies depending on the provider and in particular its worldwide revenues. A provider with significantly larger worldwide revenues than another would benefit from a significantly larger UK referable revenue exemption than the other.

5.37 We do not consider that it would be appropriate or proportionate to adopt such an exemption in this case. We have explained above our rationale for the UK revenue exemption, which is to avoid disproportionate adverse impacts such as providers choosing to leave the UK market or not enter the UK market as a result of fees liability. It is not intended to assist large global providers with significant UK revenues (albeit relatively small compared to their worldwide revenues) to avoid paying fees.

5.38 We do not consider that fees liability in the absence of a relative revenue exemption would result in disproportionate adverse impacts on the providers of regulated services. Indeed, we are mindful that (as noted above) any exemption for providers that have significant UK revenues (albeit relatively small compared to their worldwide revenues) would result in a

[203] We acknowledge that this risk could be mitigated by defining QWR with reference to UK referable revenues but explain in chapter 3 why we think worldwide referable revenues are the most appropriate and proportionate means of determining QWR. For the avoidance of doubt, we consider the benefits of the worldwide approach outweigh any risk to incentives discussed here.

[204] This is because section 83(6) of the Act enables Ofcom to exempt particular descriptions of providers of regulated services from the duty to pay fees rather than the services themselves.

greater fees liability for other providers liable to pay fees, and that this is unlikely to be proportionate in this particular case. We also note that such an exemption would likely have an adverse impact on the stability of the fees regime, as even providers with large worldwide revenues may fall in and out of the requirement to pay fees depending on the size of their UK user base (as a proportion of their worldwide user base).

Other reasons suggested by stakeholders in support of a higher UK referable revenue exemption

5.39 We consider other arguments made by stakeholders for a higher UK referable revenue exemption below:

i) **Impact on SMEs** – Some stakeholders suggested that the level of the UK referable revenue exemption should be set at £25 million to limit the impact of fees on SMEs. We do not consider this to be necessary or proportionate. As explained at paragraph 5.14, our advice regarding the QWR threshold at which fees become payable should limit the impact of fees on SMEs. We also consider the impacts on small and medium-sized providers of regulated services in further detail in our accompanying Impact Assessment (chapter 10).

ii) **Alignment with the UK DST** – Whilst we recognise that the UK DST includes a UK revenue threshold of £25 million, we are not persuaded that this is by itself sufficient justification for increasing the level of the UK referable revenue exemption. We note that the objectives of the DST and online safety fees are different (the former being a tax with the primary purpose of generating revenue to the Exchequer whilst the latter in contrast must only raise enough fees to cover our costs of regulation required by the Act). Further, we note that a second threshold based on worldwide revenues must also be met before DST is payable, which is set at £500 million (rather than the £250 million QWR threshold that we have advised the Secretary of State to set).

Other exemptions

5.40 Our view remains, consistent with our consultation and for the reasons set out below, that no further exemptions are objectively justifiable at present.

Public interest exemption

5.41 We recognise that given the broad scope of the Act, some regulated services may be operated for charitable purposes or public interest objectives and may be funded wholly or mainly by donations. Our broad policy intent remains, as explained in our consultation, to minimise the potential impact of the fees regime on not-for-profit and charitable organisations on the basis that we do not wish to compromise the ability of providers of such kinds of regulated services to deliver their services in the UK. We recognise that there may be a risk that if providers of such services had to use donations to pay fees, this could have a negative impact on the provision of such charitable or public interest services and may in some cases mean that providers of such services would withdraw the service from the UK.

5.42 However, as set out in chapter 4, we have decided to advise the Secretary of State to set a QWR threshold figure within the range proposed in the consultation. If the Secretary of State proceeds to set a QWR threshold figure within the range advised by Ofcom, our view remains that the QWR threshold and the proposed UK revenue exemption should mean that providers of this type are unlikely to be liable to pay fees. No evidence has been provided in response to our consultation to challenge this view, and those respondents

which commented on this matter were generally supportive of there being no need for a specific exemption.

5.43 However, should evidence be received in the future suggesting that an exemption would be of benefit to providers of this type, we may reconsider this. Such a situation could arise, for example, if the Secretary of State sets a QWR threshold that is lower than our recommended range, or in the event that we find there are examples of such charitable or public interest services that meet or exceed the QWR threshold in future due to revenue growth.

Exemption based on ability to pay / profitability

5.44 Some respondents to our consultation advocated for an exemption from the duty to pay fees based on profitability, including for loss-making services or providers.

5.45 For the reasons set out below, we are not however persuaded that such an exemption is objectively justified in this case and are therefore not proposing a profit-related exemption for approval by the Secretary of State.

5.46 We recognise that providers with lower revenues may be less able to bear the costs of paying fees but have taken account of this when proposing a QWR threshold of £250 million (and range of £200 million to £500 million) – see Threshold chapter 4 for more details.

5.47 Further, whilst we cannot necessarily guarantee that providers with large revenues will be able to pay fees, we continue to consider that providers with a QWR at or above £250 million (or indeed £200 million) should have the means to pay fees and that it would not materially distort their incentives if they were required to do so. Some stakeholders have raised concerns about this in principle, but none have provided specific evidence to suggest that a provider that may be liable for fees would not be able to pay them and/or would suffer disproportionate adverse impacts if required to do so. Chapter 7 explains that we anticipate a c.0.02 – 0.03% fee tariff for providers at or above the proposed QWR threshold. We are not persuaded that this would be a materially significant factor driving either the profitability or investment decisions of such a scale of enterprise. We also intend that, in common with our other regulated sectors, fee payers facing larger invoices will have the option to reduce the impact and spread the cost via payments by instalments.[205]

5.48 The Act requires Ofcom to recover the costs of regulation via fees and any exemption for loss-making services or providers (or those with lower profitability) necessarily equates to an increased fee for other providers. Whilst we acknowledge respondent observations that the DST contains a profit factor, we note that it is not required to recover a cost of regulation and that its inclusion does not therefore require other providers to bear the associated cost. We therefore do not consider it to be an appropriate comparator to our proposals. We do not consider it proportionate to require other providers in this case to bear the costs of such an exemption and note that we do not adopt such an approach in other sectors in which we charge fees.

5.49 Respondents were not clear whether profitability should be linked to the provider, its regulated service(s) or the relevant parts of those regulated services (where QWR is defined by reference to the latter), or what definition of profitability should be used. To the extent that an exemption was linked to an individual services' profitability, or the profitability of its 'relevant parts', we note that this could result in providers that are otherwise profitable (i.e.

[205] We intend to consult on the details of such a mechanism in our Statement of Charging Principles in Q4 2025.

across the range of their businesses and services) having no liability to pay fees. We also observe that exemptions under section 83(6) of the Act apply to particular descriptions of *providers* of regulated services, rather than to their regulated services. Conversely, if an exemption were linked to the aggregate profitability of a provider across all its services (including non-regulated services), it could result in providers whose regulated services are profitable having no liability to pay fees.

5.50 However, regardless of this, assessing profitability could be a complex financial task for providers, requiring both revenue and cost attributions. Even if we adopt a definition of profit for the fees regime, the variations in accounting practices and corporate structures between providers is likely to add further costs and complexities to the fee calculation process for providers.

5.51 Exempting loss-making providers or those with low profits may also increase the likelihood of fluctuations in the number of fee payers and quantum of fees payable by each provider in each year, making it harder for providers to anticipate their fee burden in a given year and adversely impacting the stability of the fees regime.

Exemption based on revenues referable to the regulated service

5.52 One respondent suggested an exemption for providers who do not generate any revenue from their regulated services or where the amount of revenue generated falls below a certain threshold. We do not however consider this to be necessary.

5.53 As explained in chapter 3, we have defined QWR for the purposes of fees by reference to revenues referable to 'relevant parts' of the regulated service (i.e. those parts on which regulated user-generated content, search content or regulated provider pornographic content may be encountered, as appropriate). Our definition of QWR (and the QWR threshold set by the Secretary of State) should already address the concern raised by this stakeholder; ensuring that only revenues referable to *those parts* of the regulated service count towards QWR. Revenues related to other parts of the regulated service (for example, on which user-generated content cannot be encountered), or to non-regulated services, will not be taken into account for the purpose of calculating a providers' fee liability.

Avoiding an 'unduly onerous' regime

5.54 We do not agree that our fees regime will be 'unduly onerous' as we have been guided by the Act, our general duties and the Secretary of State as set out in paragraphs 2.17 to 2.19. We understand that the respondent which suggested additional exemptions for this reason was concerned specifically about the impact of Ofcom determining QWR based on worldwide revenues (and considered that the UK referable revenue exemption should be higher than £10 million if we retain such an approach). We have however explained in chapter 3 why we consider that it is appropriate and proportionate to use worldwide revenues when determining QWR. We have also explained above why we are not persuaded that a higher UK referable exemption is necessary or would be proportionate.

Our proposed exemption

Proposed section 83(6) exemption, subject to approval by the Secretary of State:

A provider of a regulated service shall be exempt for the purposes of section 83 (duty to notify) and section 84 (duty to pay fees) of the Act where that provider's UK referable revenue is less than £10 million in a qualifying period.

Interpretation:

A provider's 'UK referable revenue' is revenue arising in connection with the provision of the following parts ('relevant parts') of regulated services to UK users:

i) the parts on which regulated user-generated content may be encountered;

ii) the parts on which search content may be encountered; and

iii) the parts on which regulated provider pornographic content may be encountered.[206]

All other terms referred to in this exemption are to be construed in accordance with the Act and (to the extent set out below) the QWR Regulations.

Determination of UK referable revenue

A provider's UK referable revenue should be calculated in accordance with Parts 1 and 2 of the QWR Regulations, save that: (i) revenue shall count as UK referable revenue (and, for these purposes, therefore 'referable to a regulated service') only if it arises in connection with the provision of the relevant parts of the service to UK users (rather than where revenue arises in connection with the provision of the relevant parts of the service to users anywhere in the world); and (ii) any reference to the provider's 'qualifying worldwide revenue' should be read as referring to the provider's UK referable revenue.

i) This means that in particular the following applies when calculating UK referable revenue: Where a provider has two or more regulated services, UK referable revenues for each regulated service should be added together.

ii) Where another group undertaking receives any UK referable revenues relating to a regulated service, these should be taken into account.

iii) Where it is not possible to separately identify revenues arising in connection with the provision of the relevant parts of a regulated service to UK users and revenues arising in connection with other things, such revenues should be apportioned on a just and reasonable basis, with the relevant apportionment of revenues to be taken into account.

iv) As far as reasonably practicable, amounts brought into account must conform to applicable accounting standards (as defined in the QWR Regulations).

v) Where UK referable revenues are received in a currency other than pound sterling, these should be converted into pound sterling using a just and reasonable exchange rate.

vi) The period over which the provider's UK referable revenue must be calculated is the qualifying period.

Next Steps

5.55 Whilst we have proposed an exemption for those providers that have UK referable revenues of less than £10 million, this is subject to approval by the Secretary of State and will not therefore have effect unless and until approved by the Secretary of State. We expect to update our website in due course once we have confirmation as to whether the exemption has been approved by the Secretary of State.

[206] A 'UK user' has the same meaning as 'United Kingdom user' in section 227 of the Act. A user is a 'UK user' if: (a) where the user is an individual, the individual is in the UK; (b) where the user is an entity, the entity is incorporated or formed under the law of any part of the UK.

6. Determining QWR to calculate maximum penalties where two or more group undertakings are jointly liable for a breach

Summary

What is this chapter about?

The Act provides that Ofcom has discretion to define QWR differently for the purposes of calculating the maximum penalty cap where we have found the provider and one or more undertakings in its group jointly or severally liable for non-compliance. This chapter explains what we mean by 'joint and several liability' and how we have decided to define QWR in these instances.

What have we decided?

As proposed in the consultation, for the purpose of calculating the maximum penalty cap where we have found joint and several liability for a contravention of the Act, we will define QWR as the total of all worldwide revenues received by the provider and its group undertakings in the most recent complete accounting period, whether or not that revenue is referable to a regulated service.

Why are we making these decisions?

For the reasons explained in more detail below, we consider that this approach to determining the maximum penalty cap is proportionate and appropriate to secure the deterrent effect of joint and several liability.

Background

6.1 We explain in chapter 3 the approach to determining the QWR for calculating the maximum amount of a penalty that can be imposed on a provider. The Act provides that Ofcom has discretion to define QWR differently for the purposes of calculating the maximum penalty cap where we have found the provider and one or more undertakings in its group jointly or severally liable for non-compliance. This section explains what we mean by 'joint and several liability' and how we have decided to define QWR in these instances.

6.2 Our consideration of the appropriate definition for QWR in this section applies to the calculation of the maximum cap for a penalty for group undertakings found jointly and severally liable for a breach. The actual penalty amount that we impose in a given case is

calculated in line with our Penalty Guidelines and must be both appropriate and proportionate to the failure, or failures, in respect of which it is imposed.[207]

Finding joint and several liability

6.3 In certain situations, Ofcom may issue a provisional notice of contravention or a confirmation decision to both the provider of a regulated service and one or more undertakings in its group, such as its parent company or a subsidiary company.[208] Where we do so, the group undertaking will be jointly and severally liable with the service provider for any contravention that we find in a confirmation decision and the payment of any financial penalty.

6.4 In our Online Safety Enforcement Guidance, we set out the factors we may take into account when deciding whether it might be appropriate to pursue enforcement action on this basis.[209] These include concerns that the QWR of the service provider would not allow us to set a penalty which was reflective of the seriousness of the contravention or provide a sufficient deterrent.[210]

6.5 Where a penalty is imposed on the provider and one or more group undertakings are found to be jointly and severally liable for a breach, the maximum penalty that may be imposed is the greater of:

i) £18 million; or
ii) 10% of the QWR of the provider and every other entity which is a group undertaking in relation to the provider at the time the relevant notice imposing the penalty is given.[211]

Our Proposals

6.6 We proposed to take a different approach to the determination of QWR of a group (Group QWR) compared to when determining QWR of an individual provider of a regulated service. Specifically, we proposed that Group QWR should not be limited to the worldwide revenue attributable to regulated services; instead, it should be defined as the total of all worldwide revenues received by the provider and its group undertakings in the most recent complete accounting period.

6.7 We explained that this should enhance the deterrent effect of the maximum penalty that we may impose when we find joint and several liability, and for this reason we considered it proportionate. We also explained our provisional view that such an approach has the advantage of consistency as it means the maximum penalty should have a similar deterrent effect, regardless of how group revenues are generated.

[207] Paragraph 2(4) of Schedule 13 of the Act.
[208] Paragraphs 1 – 5, Schedule 15 to the Act. Group undertaking has the meaning in section 1161 of the Companies Act 2006 and encompasses parent undertakings and subsidiary undertakings, as defined in section 1162 of the Companies Act 2006.
[209] Paragraphs 7.15-7.20 of the Online Safety Enforcement Guidance.
[210] Paragraph 7.19 of the Online Safety Enforcement Guidance.
[211] Paragraph 5(3) of Schedule 13 to the Act.

Stakeholder Responses

6.8 We received responses from half of all respondents on this proposal. Of these, two respondents[212] explicitly agreed with our approach. One respondent observed that this would send a "clear message to contravening providers"[213] while another noted that this approach would prevent providers from exploiting any loopholes in the apportionment process.[214]

6.9 The remaining respondents disagreed with our approach, raising concerns about the proportionality of setting a penalty cap based on non-regulated service revenues and the need for a consistent definition of QWR under paragraphs 4 and 5 of Schedule 13. Most respondents[215] submitted that this exceeded the scope of the Act, which applies only to regulated services. Respondents suggested that it was inappropriate to include revenues from non-regulated services while calculating penalty caps, as these services are not in scope of the Act or Ofcom's regulatory work. Two respondents argued that this also meant our proposals are inconsistent with the aims of the Act, as it does not apply to non-regulated services in any case.[216]

6.10 One respondent, noted that while the Act enables us to make provision about how the QWR of a group of entities is to be determined, it did not consider Ofcom to be permitted to take the revenue of non-regulated services into account.[217]

6.11 Another respondent raised concerns that our enforcement guidance has a low bar for pursuing joint and several liability, claiming that the guidance[218] suggests that it is not restricted only to exceptional situations or those in which multiple group undertakings have materially contributed to a breach. As such, this would result in many providers being subject to "an unnecessarily and disproportionately high penalty cap".[219]

6.12 A number of respondents proposed that a consistent definition of QWR should be adopted in both the fee and penalty contexts.[220] Two respondents also countered our argument that our proposal would ensure consistency by the same approach to all groups, noting that the Group QWR definition was inconsistent with the rest of the regime.[221] One respondent also noted that taking into account revenue attributable to the provision of regulated services generated by all group entities would still encourage compliance by all members of the group.[222] Another respondent[223] specifically argued that a consistent definition would provide more clarity and certainty for businesses while ensuring the maximum penalty is proportionate to the QWR attributable to parts of a company regulated by the Act.

6.13 Three respondents suggested alternative approaches to calculating Group QWR which aligned with their comments on the overall definition of QWR. One referred to its

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[212] MCF, pages 1-2; Big Sister, pages 1-2.
[213] MCF, page 2.
[214] Big Sister, page 2.
[215] Google, pages 13-14; [✂]; UKIE, page 10; techUK, pages 7-8; Uber, page 3; Meta, pages 10-11; Hammy Media Ltd, page 3; X, page 4; Online Travel UK, pages 7-8.
[216] Apple, page 3, 10; Online Travel UK, page 7.
[217] Apple pages 3, 9-10.
[218] See paragraph 7.16-7.17 of our Online Safety Enforcement Guidance.
[219] Meta, pages 10-11.
[220] Online Travel UK, page 8; Apple, page 3, 9-11; techUK, page 8; Google, page 14; Meta, page 11; X, page 4.
[221] Apple, page 10; Google, page 14.
[222] Google, pages 13-14.
[223] techUK, page 7.

arguments in favour of calculating QWR on the basis of profit rather than revenue and reiterated that it is especially concerned about accounting for revenues from entities such as parent company or other group entities which are non-UK facing or which do not have revenues attributable to the UK.[224] Two others referred to their arguments in favour of adopting a UK-referable approach for QWR more generally,[225] which we have addressed in detail in chapter 3.

Our Decision

6.14 For the reasons set out below, and having taken account of consultation responses, we have decided to adopt the position set out in our consultation. Specifically, we have decided to define Group QWR for the purpose of calculating maximum penalties where two or more group undertakings are jointly liable for a breach as the total of worldwide revenues received by the provider and its group undertakings in the most recent complete accounting period.

6.15 As noted in chapter 3, we recognise that the Act is intended to protect UK users rather than all internet users. We also recognise that group undertakings, and indeed providers of regulated services, may provide goods or services that are not regulated under the Act. Indeed, some group undertakings which might be found jointly and severally liable for a breach of the Act may not even provide a regulated service, nor have any UK users or customers.[226] The entities in scope for joint and several liability are set out in the Act and it is not a requirement that they provide regulated services or that the extent of their liability be limited to reflect the revenues they receive from regulated services. For the avoidance of doubt, we therefore do not agree with the view that we are not permitted to take revenues from non-regulated services into account when determining QWR under paragraph 5 of Schedule 13. Indeed, for the reasons set out below, we consider it is both appropriate and proportionate to do so.

6.16 As set out in our guidance on enforcement[227] and penalties,[228] one of our objectives in taking enforcement action is to deter future wrongdoing and drive compliance, thereby protecting UK users. Joint and several liability can play an important role in meeting these objectives, and the Enforcement Guidance notes that it may be more effective in certain circumstances than enforcement against the regulated service provider alone.[229] This includes, for example, if we have concerns that the QWR of the service provider would not allow us to set a penalty which is reflective of the seriousness of the contravention found or provide a sufficient deterrent.

6.17 We recognise that where a corporate group contains more than one provider of a regulated service, then the use of joint and several liability in that case, even if based on revenues from regulated services only, could enhance the deterrent effect compared to imposing a penalty on the individual provider alone.

6.18 However, we remain concerned that a narrow focus on revenues from regulated services and particularly from only relevant parts of those services, as discussed in chapter 3, could

[224] X, page 4.
[225] Vinted, page 4; Hammy Media Ltd, page 3.
[226] See Schedule 15 of the Act.
[227] Paragraph 7.1 of the Online Safety Enforcement Guidance.
[228] Paragraph 1.4 of the Penalty Guidelines.
[229] Paragraph 7.19 of the Online Safety Enforcement Guidance.

impede significantly our ability to effectively deter wrongdoing, drive compliance and in turn protect UK users. For example, where Ofcom finds a group of entities jointly and severally liable for a breach but only one of those actually provides regulated services, the maximum penalty in that case would be no higher than if we were to take enforcement action against the regulated service provider alone. This could undermine the effectiveness of joint and several liability as a mechanism to deter wrongdoing and drive compliance, preventing us from setting a penalty that is reflective of the seriousness of the contravention.

6.19 Our view remains that, in appropriate circumstances, taking account of all revenues from the group entities ensures the best incentives for the parent company to exercise control or authority over the service provider to ensure that it complies with its regulatory obligations under the Act, while also deterring subsidiaries or sister undertakings from playing a role in contraventions by service providers.

6.20 We also remain of the view that this approach should, as far as possible, ensure that the calculation of the penalty cap is a straightforward exercise. The identification of Group QWR on the basis of worldwide revenues should be a relatively simple matter,[230] which may often be accessible from publicly available information and we note that no stakeholder disagreed with this in response to the consultation.

6.21 For the reasons set out above, we remain satisfied that it is proportionate to set the maximum penalty cap taking account of all revenues from the group undertakings that we consider are joint and severally liable. Parliament has explicitly enabled us through paragraph 5 of Schedule 13 of the Act to define QWR for the purposes of calculating the maximum amount of penalties in cases of joint and several liability differently. It is clear from the Act that Ofcom is not required to be bound by the same definition of QWR as is used pursuant to section 85(1). However, we can only impose a penalty to which Schedule 13 of the Act applies if the provider of a regulated service (i.e. a provider with links to the UK) is found to be in contravention of the Act. We therefore consider that our approach to joint and several liability is consistent with Parliament's intentions and the territorial scope of the Act.

6.22 We have carefully considered the concerns raised by stakeholders about the proportionality of any penalties ultimately imposed through the use of joint and several liability. However, it is important to note that the definition of Group QWR only sets the potential maximum penalty, and any actual penalty that we impose would be calculated in line with our Penalty Guidelines. Ultimately, the proportionality of any financial penalty would need to be considered and justified by reference to the facts of a given case.

6.23 In this regard, we note that:

i) When determining the amount of any actual penalty to be imposed rather than the maximum penalty cap, we will consider all the circumstances of the case in the round in order to determine the appropriate and proportionate amount. The factors considered in each case will vary depending on what is relevant. Examples of potentially relevant factors are set out in our Penalty Guidelines, including seriousness, the degree of harm and the timeliness of action to bring a contravention to an end.[231]

[230] Note that we have decided, consistent with the position in our consultation, to exclude intragroup transactions from Group QWR, consistent with how revenue in group accounts is prepared and presented.
[231] Paragraphs 1.11-1.18 of the Penalty Guidelines.

ii) Whilst we do not agree with one respondent[232] that there is a 'low bar' to imposition of joint and several liability,[233] we note in any event that any penalty, including in cases of joint and several liability, must be proportionate. Whilst there may be cases where we use joint and several liability to ensure that we can impose a higher penalty than might otherwise have been the case (on which, see paragraph 6.16 above), it does not necessarily follow that the penalty in cases of joint and several liability will always be higher than that imposed against an individual provider alone. For example, our Enforcement Guidancece recognises that we may use joint and several liability if the service provider is based overseas and we have concerns about the resource required to ensure its compliance with any confirmation decision that we impose via the mechanisms of another jurisdiction.[234] Whilst it may be more efficient for us to incentivise compliance by using our Schedule 15 powers to pursue a UK-based 'related company' or 'controlling individual', it does not necessarily follow that the level of penalty that is proportionate in that case would be higher than if Ofcom had imposed a penalty on the overseas regulated service provider alone.

iii) Where we have decided it would be appropriate to pursue joint liability we will involve the 'related company' or 'controlling individual' in the investigatory process as soon as practicable.[235] Where we decide to issue a joint notice (whether a provisional notice or a proposed penalty notice) we will issue the notice to the 'related company' or 'controlling individual' at the same time.[236] They will have the opportunity to make representations to Ofcom on that notice, including where they consider it is out of scope of our powers under the Act.[237]

6.24 We recognise that our definition of Group QWR for the purposes of paragraph 5 of Schedule 13 of the Act is not consistent with the definition of QWR used for the purposes of paragraph 4 of schedule 13 and for the fees regime. However, by conferring us with the power to develop a separate definition of Group QWR, it is evident that the Act envisages that inconsistency. Whilst some stakeholders have encouraged us to adopt the same definition, we remain satisfied that this would not be appropriate. We consider that the benefits of our approach, which are set out in paragraphs 6.16 to 6.20, outweighs the benefits of consistency by providing the most effective deterrence for non-compliance.

6.25 We also note that our approach to Group QWR does not ignore our regulatory principle of consistency. As explained in our consultation, this approach to calculating maximum penalty caps takes the same approach to all groups to the calculation of the maximum penalty, in that the global revenues of all undertakings within the group are taken into account, regardless of the nature of their business activities. It therefore should have a similar deterrent effect, regardless of how group revenues are generated.

6.26 Further, we note that this approach to calculating maximum penalty caps is consistent with that used in other regimes within the UK and EU that involve global undertakings. As we set

[232] Meta, page 11.

[233] We have provided guidance in our Online Safety Enforcement Guidance regarding the circumstances in which Ofcom might consider that a parent company, subsidiary or sister undertaking will be joint and severally liable with the service provider for any contravention. This guidance sets out the types of factors that we will consider when determining whether there is joint and several liability including the degree of control exercised over the service provider, the closeness of the links and the seriousness of the contravention.

[234] Paragraph 7.19 of the Online Safety Enforcement Guidance.

[235] Paragraphs 7.21-7.23 of the Online Safety Enforcement Guidance.

[236] Paragraph 7.21 of the Online Safety Enforcement Guidance.

[237] Paragraph 7.22 of the Online Safety Enforcement Guidance.

out in our consultation, similar approaches have been adopted in the statutory cap for penalties under the Competition Act 1998[238] and in the turnover order under the Digital Markets, Competition and Consumers Act 2024.[239] Further, the European Commission takes the same approach when calculating the cap on penalties for providers who have committed competition law breaches,[240] and breaches of the Digital Services Act 2022.[241] Given the global presence of many providers within scope of the Act, we consider that it is appropriate to adopt this approach for the online safety regime.

[238] Schedule 1, paragraph 3 to the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000.
[239] See The Digital Markets, Competition and Consumers Act (Turnover and Control) Regulations 2024.
[240] Article 23(2), Council Regulation (EC) 1/2003 of 16 December 2002 on the implementation of rules on competition laid down in Articles 81 and 82 of the Treaty [2003] OJ L1/1.
[241] Article 52, Council Regulation (EU) 2022/2065 of 19 October 2022 on a single market for digital services and amending Directive 2000/31/EC.

7. Approach to Statement of Charging Principles

Summary

What is this chapter about?

Ofcom must put in place a SoCP that will apply in determining the fees payable by providers of regulated services whose QWR exceeds or meets the QWR threshold figure, and who are not exempt from fees duties.

In this chapter, we set out our decision on the approach to setting fees. As explained in our consultation, we intend to consult separately on the SoCP later this year in Q4.

What have we decided?

- We have decided to calculate fees based on QWR and are not taking other factors into account.
- We have decided to retain our proposed single percentage approach. This means that each provider liable to pay fees would pay the same percentage of their QWR, meaning providers with a higher QWR pay higher fees in absolute terms. The precise percentage would be set out each year in Ofcom's tariff tables and calculated as our annual costs of regulating online safety divided by the total QWR of all providers liable to pay fees (QWR base) in that charging year. On the basis of information currently available to us, including the latest expected costs, we expect the tariff would be in the region of 0.02 – 0.03% of each fee-paying provider's QWR.
- We intend to consult further on fees, tariff-setting and invoicing practicalities in a SoCP consultation in Q4 2025.

Why are we making these decisions?

- We do not consider it to be appropriate or proportionate to use additional factors to differentiate fees and note doing so would introduce often subjective complexity that could reduce the transparency and potentially the stability of the regime.
- We consider a single percentage approach to be a proportionate means to set fees and fairly recover the cost of regulating the UK's online safety regime.

Introduction

7.1 For Ofcom to levy fees, the Act requires that a SoCP is in force.[242] The principles in our SoCP must be such as appear to us to be likely to secure, on the basis of estimated likely costs, the following:[243]

[242] Section 88(1) of the Act.
[243] Section 88(2) of the Act.

i) that on a year-by-year basis, the aggregate amount of the fees payable to Ofcom is sufficient to meet, but does not exceed, the annual cost to Ofcom of the exercise of our online safety functions;
ii) that the fees are justifiable and proportionate, having regard to the functions in respect of which they are imposed; and
iii) that the relationship between meeting the cost of the exercise of those functions and the amounts of the fees is transparent.

7.2 The SoCP must also:[244]

i) include details relating to the computation model used to calculate fees payable. Fees payable are to be equal to the amount produced by a computation made by reference the provider's QWR for the qualifying period relating to that charging year, as well as any other factors that we consider appropriate;

ii) include details about the meaning of 'QWR' and 'qualifying period'; and

iii) specify the threshold figure contained in regulations set by the Secretary of State.

7.3 The fees must be calculated by reference to the provider's QWR for the qualifying period relating to that charging year, and any other factors that we consider appropriate.[245]

7.4 In this chapter we set out our decisions on the computation model. We intend to consult further on fees, tariff-setting and invoicing practicalities in a SoCP consultation in Q4 2025.

7.5 We have decided to set fees by reference to QWR only and not take additional factors into account. We have also decided to use a single percentage approach to set fees. Our reasoning is set out by considering the following topics:

i) Objectives for calculating fees.
ii) Setting fees based on factors other than QWR.
iii) Approach to calculating fees.
iv) Other comments made in response to our consultation.

7.6 In each section we set out our proposals, stakeholder comments and our decisions.

Objectives for calculating fees

7.7 As set out in the consultation, for calculating fees, we think the principles of proportionality, workability and stability are particularly relevant[246] and support the following objectives:

i) Avoiding placing the fees burden on a limited number of providers; and

ii) Preferring a simple fee structure over a more complex one.

7.8 No respondents commented on our proposed objectives, and we therefore adopt these in our decisions as set out below.

[244] Section 88(3) of the Act.
[245] Section 84(2) of the Act.
[246] We consider the principle of transparency is more relevant to the contents of the SoCP on which we will consult in Q4 2025.

Setting fees based on factors other than QWR

Our Proposals

7.9 In our consultation we considered whether to take account of the following factors in addition to QWR when setting fees:[247]

i) Whether providers of services which drive more of our regulatory effort should pay higher fees.
ii) Whether providers or riskier services should pay higher fees.
iii) Whether categorised services should pay higher fees.
iv) Whether providers with a lower capacity to pay fees (e.g. where they are loss making) should pay lower fees.

7.10 Our provisional view was to calculate fees solely by reference to QWR and not differentiate between types of service or take account of additional factors.

Stakeholder responses

7.11 Almost half of respondents[248][249] commented on our proposal.

7.12 Some respondents noted that it is clear in the Act that Ofcom has the power to consider other factors when setting fees and explained their view that the Act and Secretary of State guidance[250] envisages that Ofcom should have regard to other factors when setting fees.[251] One respondent also noted broader duties that apply to c.100,000 regulated services are differentiated in part on the basis of other factors, specifically risk and user numbers.[252]

7.13 Some also suggested that, when balancing the different considerations set out in the consultation, Ofcom had placed too much weight on stability[253] and workability;[254] and that Ofcom's own framework indicates that additional factors should be taken into account, particularly if greater weight is placed on proportionality.[255] Furthermore, one respondent emphasised that workability is not one of the principles set out as part of the Secretary of State's guidance.[256]

7.14 Broadly speaking, the additional factors that some respondents suggested should be considered by Ofcom in addition to QWR were:

i) the type of service, in particular by reference to regulatory effort (which could be based on risk of harm and/or whether a service is categorised); and/or

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[247] Paragraph 3.4.8 of our consultation.
[248] Pinterest, pages 1-2; Online Travel UK, pages 3-4, 6-7; Apple, pages 3, 11-12; Skyscanner, pages 1-3; Meta, pages 8-9; [✂]; Deliveroo, pages 1-2; MCF, page 3; Niantic response to the October 2024 consultation (Niantic), pages 2-3; MSPG, pages 2-3; Google, pages 16-20; Vinted, page 5; techUK, page 5; [✂]; UKIE, pages 13-15; X, page 5; Uber, pages 3-4.
[249] One respondent, [✂], noted that they agreed with the proposed approach provided that QWR is determined with a UK referrable revenue approach.
[250] Department for Science, Innovation and Technology, Guidance to the regulator about fees relating to the Online Safety Act 2023 - GOV.UK
[251] Apple, page 11; Uber, page 4.
[252] Meta, page 3.
[253] [✂]; techUK, page 5.
[254] Apple, page 12; Meta, page 3.
[255] Online Travel UK, page 4 Apple, pages 11-12; Skyscanner, pages 2-3; Meta, page 2; [✂]; MSPG, page 2; techUK, page 5; [✂]; UKIE, pages 14-15; Uber, page 4.
[256] Meta, page 3.

ii) profitability of the provider in question.

7.15 For each of the above, we summarise below the key points raised in stakeholders' responses.

Type of service and regulatory effort as an additional factor

7.16 A number of respondents suggested that it would be appropriate and more proportionate for fees to reflect regulatory effort.[257] Some endorsed in particular the general principle that those causing harm should pay more (often referred to as the 'polluter pays' principle).[258]

7.17 In support of this, some respondents emphasised that:

i) Ofcom has already recognised in its risk profiles[259] that some regulated services have a greater risk of harm (such as social media services and Part 5 services). In their view, the providers of those and other higher risk services should pay greater fees;[260] and/or

ii) categorisation thresholds had been set by the Secretary of State and as categorised services will attract more regulatory attention, this should be taken into account when setting fees.[261]

7.18 Those that supported consideration of risk as a factor emphasised that it would, in their view, be disproportionate to impose the same fees on the providers of larger low-risk services,[262] and/or non-categorised services.[263] Some respondents in particular used vertical search services (VSS)[264] as an example of the type of service that should not be subject to fees on the basis that they pose low risk to users[265] and are excluded from Category 2A[266] and therefore additional online safety duties.

7.19 Others indicated that imposing the same fees would be disproportionate to services already making safety investments[267] and that services that successfully reduce risk of harm should benefit from either a reduction in fees[268] or an exemption from fees.[269] In their view, this would incentivise providers to invest in users' safety and reduce risk.[270]

7.20 Some stakeholders also suggested that taking account of risk or categorisation when setting fees should be workable and sufficiently stable.[271] One suggested that the same types of services and features have driven online harm for many years,[272] whilst some noted that a revenue-only approach is likely to be unstable[273] itself and/or no more stable than fees

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[257] Meta, page 3; Online Travel UK, pages 3-4; UKIE, page 15; [✂]; Apple, page 12.
[258] Skyscanner, page 2; Uber, page 4; [✂]; Online Travel UK, page 3-4.
[259] For example, see Table 9 in the Risk Assessment Guidance and Risk Profiles.
[260] Apple, pages 3, 11-12; Skyscanner, pages 2-3; Uber, page 4.
[261] [✂]; [✂]; UKIE, pages 14-15; Uber, page 4.
[262] techUK, page 5, Apple, page 12; Online Travel UK, page 4; Uber, page 4.
[263] Uber, page 4; techUK, page 5.
[264] As defined in paragraph 6T(b) of Volume 2 of our consultation on illegal harms.
[265] Online Travel UK, pages 3 and 5; Skyscanner, pages 1-2; MSPG pages 2-3;
[266] VSS are excluded from Category 2A as per The Online Safety Act 2023 (Category 1, Category 2A and Category 2B Threshold Conditions) Regulations 2025, laid in Parliament following Ofcom's advice on this matter in March 2024.
[267] Niantic pages 2-3; UKIE, pages 2 and 15; techUK, page 5.
[268] Google, page 7; Niantic, page 3.
[269] techUK, page 5.
[270] techUK page 5; Niantic, page 3.
[271] Online Travel UK, page 4; Apple, page 13; Skyscanner, page 2, Uber, page 4.
[272] Skyscanner, page 2.
[273] Meta, page 9.

which take account of the risk profile of services.[274] Another agreed that categorisation was less stable than service type but felt that Ofcom would have clear visibility of emerging Category 1 services to have a degree of certainty about future funding.[275] A third indicated that when balancing proportionality and stability, lower unpredictable fees were preferable to predictable higher fees.[276]

7.21 Comparison was also drawn with the EU's Digital Services Act (DSA) by some respondents, who noted that fees in that context are differentiated based on both size and nature of the service, and therefore risk.[277] They suggested that adopting a similar approach would foster greater alignment with the DSA.

Profitability as an additional factor

7.22 Some respondents suggested that Ofcom should charge reduced fees to those providers that have relatively low profitability[278] (and/or exempt such providers from the requirement to pay, which we discuss in chapter 5).[279]

7.23 In support of this view, some stakeholders noted that revenue is a poor indicator of ability to pay, and that fees based solely on QWR will place a much higher relative burden on companies with lower profits or which are loss-making. In particular, some respondents suggested that this would disproportionately impact smaller or newer companies and could adversely impact innovation.[280]

7.24 Several stakeholders also noted that a profit factor would be consistent with the DSA[281] or the DST.[282]

Our decisions

7.25 Fees must be set by reference to QWR, but the Act also allows us to take account of other factors we consider appropriate.

7.26 We have carefully considered the challenge raised by a number of stakeholders that a revenue-only approach is disproportionate, particularly to large low-risk services or providers with a lower capacity to pay fees. Proportionality is one of several principles at the heart of Ofcom's work[283] and one of three overarching principles driving online safety fees.[284] Whilst significant consideration has been given to achieving a proportionate fees regime, it has been appropriately balanced with the other principles.

7.27 We recognise the strong support from a large number of respondents to Ofcom taking account of other factors when setting fees. We acknowledge that the Act gives us the discretion to consider other factors. However, following consideration of stakeholder responses as well as the information and evidence currently available to us, our view

[274] techUK, page 5.
[275] Uber, page 4.
[276] [✂].
[277] Niantic, pages 2-3; [✂].
[278] Net income is the US equivalent of profit for the financial year.
[279] X, page 5; MSPG, pages 2-3; Pinterest, page 1, [✂]; techUK, page 5.
[280] MSPG, pages 2-3; Pinterest, page 1.
[281] Pinterest, page 1; Online Travel UK, page 7.
[282] [✂].
[283] See Section 3(3) of the CA03.
[284] See paragraph 2.17 for an overview of the principles that we must apply when implementing the online safety regime.

remains that it is both appropriate and proportionate to set fees by reference only to a provider's QWR.

7.28 Our reasoning is set out below and considers the following issues in turn:

i) Should higher-risk services pay higher fees and/or lower risk services be exempt from fees/pay lower fees?
ii) Should categorised services pay higher fees?
iii) Should vertical search services pay lower fees or be exempt from fees?
iv) Should providers of services that drive more of our regulatory effort pay higher fees?
v) Should the providers of services with lower profits pay lower fees, or be exempt from fees?

7.29 We note that the Act does not require us to take account of other factors and nor do we consider that it was necessarily expected that we should take account of other factors such as risk or categorisation status of services when setting fees. Had Parliament expected Ofcom to have regard to any other specific factors when setting fees (i.e. in addition to QWR), we consider that this would have been made explicitly clear in the Act. For example, Ofcom is explicitly required to have regard to the principle that measures set out in its Codes of Practice should be proportionate to its assessment of the risk of harm presented by the kinds or size of service in scope.[285]

i) Should higher-risk services pay higher fees and/or lower risk services pay lower fees?

7.30 We recognise that risk is a central feature of the Act, with regulated services having to conduct suitable and sufficient risk assessments and the proportionality of their systems and processes being considered by reference to those assessments. However, we are not persuaded that it would be appropriate or proportionate for Ofcom to take account of risk when setting fees by charging perceived riskier services a higher fee.

7.31 Our view remains that it would be impracticable to vary fees depending on the relative riskiness of providers or services. As explained in our consultation, services' risk assessment duties in the Act do not result in a single overall risk level across a regulated service as a whole. In addition, the drivers of risk and the likelihood and impact of different risks arising will vary considerably across different types of regulated services and over time on individual services. This makes it challenging to develop an overall measure of risk that is objective, transparent and comparable across services.

7.32 In addition, even if Ofcom were able to identify a single objective measure of risk for regulated services, it is not clear to us that it would be appropriate or proportionate to levy higher fees on riskier services. We note in this regard that:

i) Large, regulated services that are assessed as having a higher risk in relation to particular types of illegal content or content harmful to children are likely to face a greater regulatory burden and higher costs in order to comply with the Act than large lower-risk services. This reflects the fact that, in determining what is proportionate for the purposes of complying with the illegal content or children's safety duties, the Act makes clear that the findings of the service's most recent risk assessments are relevant. The recommendations set by Ofcom in its Codes of Practice have been tailored to service

[285] Paragraph 2(d) of Schedule 4 to the Act.

size and, importantly, risk.[286] We are not therefore persuaded that it would be appropriate or proportionate to impose higher fees on the providers of 'higher risk' services. As noted above, and similar to categorised services (discussed below) their regulatory burden under the Act is likely to already be greater than lower-risk services of the same size.

ii) Regulated services that assess themselves as being lower-risk for illegal content or content harmful to children are still subject to the online safety duties and remain subject to regulation under the Act.[287] This reflects the fact that illegal content and content harmful to children can be encountered even on services that consider themselves to be lower-risk. A significant proportion of the measures that we have proposed in our Illegal Content Codes of Practice apply to the providers of large services, irrespective of their risk assessment.[288]

iii) Service risk assessments may also change frequently (e.g. when new features or safety measures are launched) which could undermine the stability of the fee regime if risk levels were included as a factor. In support of their view that Ofcom should take account of risk when setting fees, stakeholders did not appear to challenge this and some instead noted that fees based on revenues-only may also be unstable. We are however required to set fees by reference to revenues.

7.33 We note the suggestion by some stakeholders that, if Ofcom were to take account of risk when setting fees, this may incentivise services to invest more in online safety and reducing risk to UK users. However, we do not consider it is necessary to do this in order to provide sufficient incentives to regulated services. The Act already incentivises investment in managing and reducing the risk to UK users from certain types of content and (as noted above) some of the measures in our Codes of Practice have been tailored to take account of risk. We note that, if we have concerns about a specific provider's approach to compliance with the Act, it is open to us to take enforcement action against that provider - or to even open a wider enforcement programme, to consider compliance across specific kinds of services.[289] We further note that linking fees to risk, and in particular provider risk assessments, could discourage providers from accurately assessing and therefore addressing risk.

7.34 Finally, some stakeholders have suggested that the imposition of higher fees on riskier services would align more closely with the approach taken in the DSA. However, we note that the DSA requires those services designated as very large online platforms (VLOPs) or very large online search engines (VLOSEs) to pay supervisory fees but that this designation is not necessarily dependent on risk; rather, it focuses on those online platforms or search engines that have 45 million users per month in the EU.[290] In any event, we are not

[286] For example, our Illegal Content Codes of Practice for user-to-user services recommends that the providers of certain services that have a higher risk of image-based CSAM should use hash matching technology to detect and remove CSAM (ICU C9 on page 149).
[287] See, for example, section 7(2) of the Act. For completeness, we note the Act exempts a small number of particularly low risk services (for example, limited functionality services are exempted under paragraph 4 of Schedule 1 to the Act) and they would not be regulated under the Act, nor by extension subject to the duty to pay fees.
[288] See Tables 1 and 2 at Summary of our decisions for a breakdown of which recommendations in Ofcom's Illegal Content Codes of Practice apply to which service providers.
[289] Ofcom's Online Safety Enforcement Guidance sets out how Ofcom will normally approach enforcement under the Act and includes a summary of its enforcement powers.
[290] Digital Services Act – supervisory fees on providers of very large online platforms and search engines | EUR-Lex.

persuaded that alignment with the DSA is by itself a sufficient reason to justify the imposition of higher fees on riskier services.

ii) Should categorised services pay higher fees?

7.35 The Act places additional obligations on categorised services – known as Category 1, 2A and 2B services – if they meet certain thresholds set out in secondary legislation.[291] Ofcom intends to publish an initial register of categorised services in Q3 2025.

7.36 Unlike risk (which we discuss above), we recognise that categorisation status could provide a binary indicator to distinguish between different services[292] which may make it more workable for Ofcom to take into account when setting fees than risk. However, it is worth noting that, given Ofcom's requirement to keep the Categorisation Register up to date and the related possibility that services may move in or out of the thresholds, categorisation status is itself open to change over time. The thresholds can also be amended by Parliament.

7.37 We are also not persuaded that it would be appropriate or proportionate to require the providers of categorised services to pay higher fees than those levied on the providers of non-categorised services. Where a service is categorised by Ofcom, it follows that it is subject to additional duties set out in the Act which will impose a greater regulatory burden and costs on that service as compared to other services. The extent of those additional duties will differ depending on whether the service is a Category 1, Category 2A or Category 2B service, with Category 1 services facing the greatest number of additional duties.[293] It is not clear to us that it would be fair or proportionate to impose higher fees on categorised services simply because they are categorised and subject to these additional duties. Their regulatory burden under the Act is likely to already be greater than other non-categorised services.

7.38 Furthermore, it is not clear at this stage that the regulation of categorised services will necessarily demand greater regulatory effort and/or incur greater costs for Ofcom, nor that this would be consistent over time. Whilst categorised services are likely to be some of the largest in terms of their UK reach and incorporate certain functionalities (such as content recommender systems or direct messaging functionality) that can increase the risks of online harm, it does not necessarily follow that greater Ofcom resource will be spent on regulating these services in the long-term, as some stakeholders have suggested. This will depend on the extent to which categorised services put in place proportionate systems and processes to comply with their duties in the Act (and, conversely, the approach taken by non-categorised services to compliance with the Act).

7.39 Whilst some stakeholders have suggested that categorisation should be taken into account when setting fees, we also note that they have not explained how Ofcom should do this (beyond saying that they should pay higher fees), nor considered the potential complexities that setting fees by reference to categorisation would present. For example:

i) We have explained in chapter 3 our view that a provider's QWR should be aggregated across all its regulated services if it provides more than one regulated service. We note

[291] See The Online Safety Act 2023 (Category 1, Category 2A and Category 2B Threshold Conditions) Regulations 2025.
[292] Services will either be listed on the Categorisation Register at a certain point in time or they will not be listed.
[293] In each case, they will have additional duties regarding transparency reporting and disclosure of information about use of the service by a deceased child user. For Category 1 services in particular they will have extensive additional duties relating to (amongst other things) user identity verification, user empowerment and terms of service. More detail is available at: Implementing the Online Safety Act: Additional duties for 'categorised' online services - Ofcom.

that a provider in scope of fees could provide multiple services, some of which are categorised and some which are not. Whilst we do not consider this renders it impossible or impracticable to take account of categorisation when setting fees, we note that it would make fees more complex and potentially less stable.

ii) As explained above, the additional duties imposed on a categorised service will differ depending on whether it is a Category 1, Category 2A or Category 2B service. Given that Category 1 services are subject to more extensive duties, the logic of some stakeholder submissions would suggest that those services should be subject to higher fees than Category 2b services and that it would be unfair or disproportionate to charge the same higher fee to both Category 1 and 2b services. We note this would also introduce greater complexity into the fee setting and determination process.

7.40 In addition, whilst some stakeholders have suggested that the imposition of higher fees on categorised services would align more closely with the DSA, we are not persuaded that this is by itself a sufficient reason to justify aligning fees with categorisation.

7.41 Finally, whilst we have not placed significant weight on this, there is an increased risk of delay to the implementation of the fee regime should dependent components, such as categorisation, be delayed.

iii) Should Vertical Search Services pay lower fees or be exempt from fees?

7.42 Notwithstanding our decision that other factors such as the risk associated with services should not be taken into account when setting fees, we acknowledge the challenges raised by stakeholders about the proportionality of applying the same level of fees to the providers of VSS. VSS are currently excluded from category 2A[294] and therefore are not subject to additional duties such as those relating to transparency reporting or enhanced requirements on risk assessments and record keeping. We also recognise that a range of the measures set out in our Illegal Harms Codes of Practice may not in practice apply to VSS.[295]

7.43 However, VSS remain as regulated services and are still subject to the online safety duties set out in Chapter 3 of Part 6 of the Act. We have recognised that – due to the specificity of their content and types of content that large VSS focus on – they are less likely to pose risks to users in respect of encountering potentially illegal content or content that is harmful to children.[296] However, we have also explained that we will monitor this issue in the future to see whether our view on potential risk changes based on evolving evidence, and we have not ruled out that VSS could be used for the dissemination of such content. Furthermore, as noted above, our view more generally is that it is not appropriate or proportionate to use risk as a factor to determine fees.

7.44 In light of the above, we are not persuaded that it would be appropriate or proportionate to charge lower fees to VSS specifically (or to exempt them) from the requirement to pay fees.

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[294] Based on the categorisation thresholds confirmed by Parliament in February 2025.
[295] See paragraph 1.9 onwards of the Summary of our decisions for our Illegal Content Codes of Practice. A number of codes measures apply to 'general search services' only which do not include VSS. Further, a number of the other measures only apply to those search services which are assessed as being single or multi-risk services. Whether a search service is single- or multi-risk will depend on the risk assessment completed by the provider of that service.
[296] See paragraph 4.8 of Ofcom's Categorisation Research and advice.

iv) Should the providers of services that drive more of our regulatory effort be required to pay higher fees?

7.45 Whilst the majority of stakeholders that expressed support for Ofcom taking account of other factors focused on risk or categorisation, a number made the general suggestion that the 'polluter' should pay and that higher fees should be imposed on those services that absorb the greatest regulatory time and effort.

7.46 We do not consider however that it would be appropriate or proportionate to set fees by reference to the time or regulatory effort expended on particular services (or types of services) more generally.

i) We recognise that certain *kinds of service* might drive a greater proportion of Ofcom's costs in some years than others (for example, where we open an enforcement programme into a particular kind of service, such as our recently announced enforcement programme into file-sharing and file-storage services).[297] However, it is not clear to us that all services of that kind should pay higher fees as a result, particularly as Ofcom may ultimately not have any concerns about the approach taken by a number of the services considered in the enforcement programme. Further, we note that the kinds of service that Ofcom might focus its resource on are likely to change over time and/or rapidly which would likely adversely impact the stability and predictability of the fees regime.

ii) Where Ofcom expends resource investigating the compliance of a *particular service* with its online safety duties, and finds it to have contravened those duties, it is open to Ofcom to impose a penalty on that service. It is not clear to us that it would be fair or proportionate to also impose higher fees on that service as a result.

v) Should the providers of services with lower profits pay lower fees?

7.47 In chapter 5, we explained our view that an exemption from the duty to pay fees based on profitability (including for loss-making providers) is not objectively justified. Except as explained below, we consider that reasoning applies equally to suggestions from some respondents that the profitability of a service or provider should be taken into account when setting fees through, for example, reduced fees.

7.48 We observe in chapter 5 that exemptions under section 83(6) of the Act apply to particular descriptions of providers of regulated services, rather than to their regulated services. Whilst the SoCP may allow Ofcom greater flexibility to take into account the profitability of a provider's different services (and to charge different fees in respect of different parts of a provider's QWR), this could result in greater complexity when calculating a providers' fees.[298] We also note that (given the complexity of assessing profitability) the verification process would require significant additional resources, raising overall compliance costs associated with the fees regime and the administrative burden on Ofcom.

7.49 Further, whilst we recognise that charging lower fees to providers with lower (or no) profits may not increase the likelihood of fluctuations in the number of fee payers, it would still

[297] We have recently opened an enforcement programme to assess the measures being taken by providers or file-sharing and file-storage services that present particular risks of harm to UK users in respect of image-based CSAM on their services. This enforcement programme does not focus on categorised services, nor does it only focus on the largest services in terms of user reach.

[298] For example, defining how profitability should be assessed, whether it should apply to the provider, the regulated service or relevant parts of regulated services, and assessing the attribution of revenues and costs.

increase the likelihood of fluctuations in the quantum of fees payable by each provider in each year, making it harder for providers to anticipate their fee burden in a given year and adversely impacting the stability of the fees regime.

Approach to calculating fees

Our proposals

7.50 We proposed to calculate fees using a 'single percentage' approach. This means that all providers at or above the QWR threshold figure would pay the same percentage of QWR rather than, for example, that all such providers would pay the same absolute fee or pay tiered fees. Based on information available to us, we said we expected the percentage tariff to be in the region of 0.02 - 0.03%.

Stakeholder responses

7.51 One respondent explicitly supported the approach of using a single percentage fee[299] whilst another explained that subject to its views on how QWR should be calculated and the use of a fees cap, it considered this will ensure the greatest consistency between providers and is appropriate in the interests of fairness.[300] No respondents supported a single absolute fee approach.

7.52 Approximately a quarter of SoCP question respondents suggested a tiered/banded approach to fees rather than a single percentage approach.[301] In support of this, it was suggested that tiered/banded fees:

i) Could be used in conjunction with a lower QWR threshold figure to proportionately and progressively recover fees from a larger number of providers. A single respondent noted in particular that, if Ofcom is concerned about the impact of fees based on a single percentage approach on providers with a lower QWR, banded fees could be used to lessen the financial burden on those providers.[302]

ii) Should be used to ensure that fees are progressive, and that providers which are only slightly over the QWR threshold do not pay a disproportionately high fee and those with the 'broadest shoulders' bear the greatest burden. The respondent suggested that this would promote innovation, competition, and growth.[303]

iii) Are used by Ofcom when imposing charges in other sectors, and that Ofcom has previously stated that progressive tariff scales reduce the financial impact upon smaller operators and are generally pro-competitive.[304] Two respondents also noted that a tiered approach has been adopted in other regimes such as the Information

[299] MSPG, page 2.
[300] Google, page 19.
[301] Meta, page 5; techUK, page 8; [✂]; [✂].
[302] Meta, page 5.
[303] [✂].
[304] Meta, page 5 made specific reference to certain television and radio licence fees set out in Tables 4 and 10 of Ofcom's 2023 / 24 Tariff Tables.

Commissioner's Office (ICO) fee structure for data protection[305] and in the UK income tax regime.[306]

iv) Would simplify QWR administration.[307] One respondent elaborated that such an approach would minimise risk of inconsistent approaches by providers and reduce the administrative burden on providers. This is because providers would only need to identify the QWR tier within which they belong, rather than calculating the precise QWR figure.[308]

7.53 Almost half of respondents suggested that there should be a cap on the maximum fees a provider should pay.[309] In support of this view, the following points were made:

i) Fees will be difficult to predict and fee caps could help providers to ensure the fees payable are foreseeable and manageable.[310] Without a cap, one respondent noted that a significant increase in a large provider's QWR could significantly distort fees, adversely impacting the stability and predictability of the fees regime.[311] Another respondent[312] suggested the absence of a cap might act as a disincentive for companies to enter the UK.

ii) Fee caps are used in the DSA (whereby fees are capped as a percentage of profit/income)[313] and the UK's DST.[314]

iii) Different caps could be applied to different types of service.[315]

iv) It would be inappropriate for a single provider's fees to fund the bulk of Ofcom's online safety budget.[316]

Our decisions

7.54 We have decided that fees should be set solely by reference to QWR and based on a single percentage approach.

7.55 Given our preference for a simple fee structure, we consulted on the following two approaches to calculating fees:

i) Single absolute fee – all providers at or above the QWR threshold figure pay the same absolute fee (i.e. the same amount of fees);
ii) Single percentage fee – all providers at or above the QWR threshold figure pay the same percentage of QWR.

7.56 We did not consider a single absolute fee approach to be proportionate and no respondents disagreed. As such we do not consider it further.

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[305] techUK page 8.
[306] [✂].
[307] [✂]; techUK page 8.
[308] [✂].
[309] Online Travel UK, pages 6-7; Meta, page 9; Google, pages 2, 18-19; techUK, page 8; Uber, page 3; X, page 6; [✂], page 1 specifically noted that the fee cap should also be based on net income.
[310] X, page 6; Google, pages 2 and 18; Meta, page 9; Uber, page 3; [✂].
[311] Meta, page 9.
[312] Google, page 18.
[313] Online Travel UK, page 6, Google, pages 2 and 18.
[314] Uber, page 3.
[315] Online Travel UK, page 7.
[316] Meta, page 9.

7.57 In the rest of this section we explain our decision to adopt a single percentage fee approach and why we don't consider a banded/tiered approach or fee caps to be appropriate.

Single percentage fee approach

7.58 Under a single percentage fee approach, the percentage fee paid by each provider is calculated as the total Ofcom cost to be recovered divided by the total QWR base (i.e. for those liable to pay fees based on our proposals, the total QWR for each provider across all of their regulated services).

7.59 For the purposes of illustrating the impact of a single percentage fee approach we have used our latest budgeted annual costs relating to online safety regulation of £92m.[317] This is different to the budgeted £70m referred to in our consultation. It includes an increase to our online safety budget - as agreed with DSIT and HM Treasury - to ensure Ofcom is able to discharge its duties, and the corresponding increase in common costs (allocated to all sectors). Additionally, with the shift to active regulation of the online sector - now the largest sector Ofcom regulates - we have reviewed the way common costs - such as our strategic and policy work which span across all our regulatory sectors and corporate infrastructure, including our real estate costs - are allocated amongst our sectors. The approach is in line with our existing cost recovery model,[318] which will be the foundation of our upcoming Statement of Charging Principles consultation. While the precise level of common costs allocated to online safety may increase or decrease in the future, this figure therefore reflects a one-off adjustment, which we would not expect to be repeated in future years. The fees for 2026/27 will be set using our annual budget figures to be published in the 2026/27 tariff tables.

7.60 We have also used the revenue data obtained through our Request For Information (RFI) exercise described in Annex 6. We estimated that 20 respondents to our information requests would be liable to pay fees based on our proposals, representing an estimated total QWR base of £350 billion to £400 billion (i.e. the total QWR of all providers liable to pay fees within our sample).[319] Following additional analysis reported in Annex 6, we consider the number of fee payers could plausibly be higher than the 20-40 range we referred to in our consultation and that up to 60 providers could be in scope for fees, although we are unable to estimate QWR for these providers. However, the exact number of fee payers will only become clear once providers notify their QWR to us and, as such, the potential impact on the total QWR base and tariff is uncertain.

7.61 Using our illustrative figures and the latest costs information, a single percentage fee approach equates to a fee of around 0.02 - 0.03% of QWR for each provider.[320] To the extent the total QWR base grows more quickly than our regulatory costs (e.g. due to growth in the number of providers liable to pay fees and/or the growth in QWR amounts), the percentage tariff may reduce over time, though the fees paid by individual providers could increase should their share of the total QWR base increase. Similarly, the percentage tariff could increase over time if the total QWR base grew more slowly than our regulatory costs.

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[317] This is consistent with the figure quoted in the Ofcom Tariff Tables 2025/26 (chart 2 on page 4). Our annual costs will vary dependent on the level of regulatory activity we undertake in any given financial year. To date, our costs associated with online safety have been funded by retaining WTA receipts.

[318] Ofcom Statement of Charging Principles 2005.

[319] This figure is based on provider financial years ending in 2023.

[320] i.e. £90 million divided by £350 billion - £400 billion = 0.0225% - 0.0257%.

7.62 The share of our regulatory costs payable by a provider under the single percentage fee approach is the same as that provider' share of the total QWR base (i.e. the total QWR of all providers liable to pay fees).[321]

7.63 Overall, we believe a single percentage fee approach to be a proportionate means of allocating the costs of UK online safety regulation, as all providers liable to pay fees would pay the same percentage of their QWR, meaning providers with a higher QWR pay higher fees in absolute terms. The proportion of total fees payable by each provider would be aligned with their share of the total QWR base which we consider to be a fair outcome.

Banded/tiered fee approach

7.64 A banded or tiered approach generally means providers in higher bands/tiers face a higher tariff than those in lower bands or tiers.

7.65 As explained above, a number of stakeholders implicitly supported a banded/tiered approach. For example, many suggested that providers of 'riskier' or categorised services should be subject to a higher percentage fee. We have explained above why we do not agree with the points raised by stakeholders in this regard. Additionally, the following points were made in support of banded or tiered fees which we consider in turn below.

i) They would allow Ofcom's fees to be progressive. We do not consider that it would be proportionate to set progressive fees in this particular case. Progressive fees would mean the providers of services with the largest revenues would pay a higher relative proportion of fees than smaller providers. It is not clear to us that this would be proportionate given that we expect that the 5 largest providers by QWR will pay most of our fees (see Annex 6). We also note that we have not received specific evidence in response to our consultation to suggest smaller providers that may be liable for fees would not be able to pay them based on a single percentage approach, and/or would suffer disproportionate adverse impacts if required to do so.[322]

ii) If fees were progressive, they would allow Ofcom to recover fees from a larger number of providers. We have explained in chapter 4 why we do not consider it appropriate to lower the QWR threshold at which point providers become liable to pay fees, and explained above why we do not consider that it would be proportionate to set progressive fees in this case. We note that the respondent who supported the use of tiered/banded fees for this reason otherwise seemed to consider that a single percentage approach would be proportionate (even suggesting that the single percentage approach would be proportionate for the vast majority of providers with a revenue as low as £65m).

iii) They would reduce the administrative burden. We expect that providers will incur some administrative burden in set up and running costs for the fees regime. However, we consider that the administrative burden from a single percentage approach is both reasonable and proportionate, particularly as it is not evident that fee banding would necessarily reduce the administrative burden on those liable to pay fees. Ofcom uses fee bands to set administrative charges on the providers of electronic communications networks and services, but providers of such networks and services are still required to

[321] See also Table 1 on page 43 of our consultation.

[322] See our Impact Assessment in chapter 10 for more details on the likely impact of our proposals on small and medium providers.

provide their complete and accurate relevant turnover information to Ofcom.[323] However, we recognise provider concerns regarding the challenges of QWR calculation and intend to consult on QWR guidance in Q3 2025. We envisage this guidance will assist providers by providing practical illustrations of approaches to calculating QWR.

7.66 Other points raised by respondents included:

i) That tiered/banded fees would promote innovation and growth. As explained above, we do not consider progressive fees to be proportionate. Also, given the size of potential fees is likely to be relatively low (perhaps in the order of 0.02 - 0.03% of QWR), we do not consider they would represent a material deterrent to long-term growth and investment in the UK.

ii) The online safety fees regime would be inconsistent with fees regimes in other Ofcom-regulated sectors, and with other fees regimes (such as the ICO's). Whilst tiered fees are used by us in the broadcasting [and telecoms] sector and are used in some cases by other regulators, we do not consider that this by itself justifies the use of tiered fees in this particular case. We note that we use a single percentage fee in the postal services sector for example. As set out in the consultation,[324] we also do not consider a tiered/banded regime appropriate as we cannot identify an objective basis for adjusting the fee percentages.

7.67 More generally, we are not persuaded that it would be appropriate or proportionate to use banded fees for the online safety fee regime. It would mean providers in some fee bands effectively paying more to subsidise those in other bands. Whilst this may be appropriate in some sectors, particularly where there are a greater number of fee payers and/or revenues do not vary as widely, we are not persuaded that it would be fair or proportionate for the online safety sector and have not identified an objective basis for why this would be appropriate. Our decisions, particularly the recommended QWR threshold of £250 million, mean we anticipate a smaller number of fee payers, but widely varying QWR. As such, our view remains that it is more proportionate to adopt a single percentage approach which effectively tailors the fee to the provider's QWR.

Whether Ofcom should adopt a fee cap

7.68 Some respondents suggested that Ofcom should set a fee cap to ensure that their fees are manageable and predictable.

7.69 Whilst we acknowledge the need for providers of regulated services to have predictable fees, we do not consider a fee cap to be a necessary or proportionate tool in this case.

7.70 First, we consider that the setting of fees based solely on QWR and using a single percentage approach should give providers that may be liable to pay fees sufficient insight into their likely fees.

i) Whilst we acknowledge that fees are influenced by other providers' QWR, we note that our approach for the qualifying period of two years prior to the charging year should enable a provider to obtain a reasonable understanding of its market position and potential fees liability.

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[323] See, for example, Ofcom's general demand for information under section 135 of the Communications Act 2003, which demand is addressed to each and every person who is liable to pay administrative charges under section 38 of that Act. This is available at: General demand for information - Ofcom.

[324] Paragraph 3.4.16.

ii) Whilst we acknowledge that providers will not be able to calculate their fees with certainty in advance of publication by Ofcom of its annual tariff tables, we are not persuaded that absolute certainty is necessary for in-scope providers (including to incentivise providers to enter, or remain, in the UK). This is particularly so given the scale of the fees payable, which is likely to be in the region of 0.02 - 0.03% of providers' QWR. We also note that, whilst an absolute fee cap might provide certainty to the biggest providers with the largest revenues, it would not provide a similar degree of certainty to other providers liable to pay fees. We note that respondents only suggested an absolute fee cap model; while we recognise that relative fee caps would provide greater certainty to providers about their maximum fees liability, we consider that this is outweighed by the risk that we may not be able to recover our regulatory costs.

7.71 Second, we are concerned that it would be disproportionate and unnecessary to impose a fee cap in the online safety fee regime. It would require any shortfall in fees arising from providers paying less due to a cap to be absorbed by providers operating under the cap (but above the QWR threshold). It is for this reason that we do not agree with the suggestion[325] that introducing a fee cap would increase the number and range of providers that are subject to fees. It would, rather, mean that any costs not recovered as a result of the fee cap would need to be recovered from the same pool of providers with lower revenues but which exceed the QWR threshold. Whilst we note some comparison has been made to fee cap elements of the UK's DST and the EU's DSA we are not persuaded that this is by itself a sufficient reason to justify doing this, and as we set out above, the DST is not necessarily an appropriate comparator as it is not required to recover a cost of regulation and the inclusion of a fee cap or profit factor would not therefore require other providers to bear the associated cost.

7.72 We also disagree with the concern raised by some stakeholders that it would be inappropriate for one or two providers to pay the bulk of Ofcom's online safety fees. Our indicative analysis (outlined further in Annex 6) suggests that the total amount of fees could be paid by up to 60 providers. The quantum of fees payable by an individual provider would be proportionate to the provider's revenue. We do acknowledge that a small number of providers are likely to pay the majority of fees, but we consider this appropriate as it reflects the revenue share of the total QWR base represented by such providers. As outlined in chapter 4, we consider our recommended QWR threshold range of £200 million to £500 million to achieve our objectives to ensure fees are paid by a reasonable number and range of providers whilst limiting the impact on SMEs and reducing compliance burdens and administrative complexity.

Other comments made in response to our consultation

7.73 Respondents raised a number of other points related to the SoCP and how we set fees which we respond to in turn below.

How will Ofcom ensure transparency and value for money of regulatory costs?

7.74 A small number of respondents made proposals for increased scrutiny of Ofcom's regulatory costs to ensure value for money.[326] The responses ranged from requesting

[325] Meta, page 9.
[326] X, page 6; Online Travel UK, page 6; Google, pages 16-17; Uber, page 3; MSPG, pages 2-3; techUK, page 8; Meta, page 10.

opportunities to scrutinise Ofcom's online safety budget[327] (such as through an auditing process)[328] and annual plan of work,[329] to having greater clarity on how the tariff was set (such as through a breakdown of Ofcom's costs)[330] and opportunities to suggest efficiencies in Ofcom's approach.[331]

7.75 As explained in chapter 2, in each financial year, Ofcom is required to balance its expenditure with its income.[332] We operate within an overall financial cap set by HM Treasury and DSIT, which acts as a ceiling as to how much we can spend in any given year.

7.76 Whilst Ofcom does not publish a detailed breakdown of its costs in exercising its online safety functions, we note that providers will have visibility of our annual reports and budget. Providers will also be able to offer views on our priorities via our annual programme of work consultation.[333]

7.77 Our fees and charges are also subject to audits by Ofcom's internal auditors and the NAO. The NAO are also able to conduct value for money audits of Ofcom and our work, helping to ensure we provide value for money in all of our activities.

7.78 Finally we note that we are required by statute to fully recover our costs and publish a statement at the end of each charging year setting out:

a) The aggregate amount of the fees payable under section 84 for that year that has been received by Ofcom;

b) the aggregate amount of the fees payable under that section for that year that remains outstanding and is likely to be paid or recovered, and

c) the cost to Ofcom of the exercise of our online safety functions.[334]

d) In view of the above, we believe that Ofcom's costs are incurred in a transparent way and monitored appropriately. In order to impose fees, Ofcom will also need to have a SoCP in place which will include principles that are likely to ensure (among others) that the aggregate amount of the fees payable to Ofcom is sufficient to meet, but does not exceed, the annual costs to Ofcom of the exercise of its online safety functions and that the relationship between meeting the cost of the exercise of those functions and the amounts of the fees is transparent.[335]

Whether Ofcom should consider additional compliance costs when setting fees?

7.79 One respondent suggested that Ofcom should include a provision which ensures any additional compliance costs across different UK regulators can be considered, thereby accounting for the cumulative impact of businesses' compliance costs in the UK and globally.[336]

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[327] Online Travel UK, page 6; Google, page 17.
[328] [✂].
[329] Google, page 17.
[330] Google, pages 16-17; techUK, page 8.
[331] Meta, page 10; MSPG, pages 2-3.
[332] Paragraph 8(1) of the Schedule to the Office of Communications Act 2002.
[333] For example, Ofcom's Plan of Work for 2025/26.
[334] Section 88(7) of the Act.
[335] Section 88(2) of the Act.
[336] MSPG, page 3.

7.80 We have concluded that this suggestion is neither workable nor in line with the objective of the fees regime: to fund the costs of Ofcom's regulatory functions under the Act. Compliance costs for other regimes are also likely to change on an annual basis and will differ greatly for each provider. It would also impose a disproportionate administrative burden on Ofcom to verify and incorporate compliance costs from other regulatory regimes and would adversely impact the stability of the fees regime.

Whether Ofcom will provide sufficient notice of fees and more information on the fees process?

7.81 Some respondents also sought clarity about our fees process more generally. One respondent[337] asked that final annual fees for individual companies be communicated as soon as possible to aid financial planning, noting that provider budgets are often set in advance and that significant changes to these would be disruptive, particularly for small and medium sized companies.

7.82 A small number of respondents sought clarity on what would happen in the event that we overestimate the cost of regulation to be recovered and providers' fees in a particular year therefore exceeded that which was required.[338]

7.83 Another respondent additionally suggested that a provisional determination of the fee to be charged to each provider should be communicated before sending invoices, in order to allow providers the opportunity to submit observations which would be taken into account in the final invoice.[339] They suggested that we should provide all relevant figures and facts relied upon to calculate the relevant fee.

7.84 Similar to the practice in other sectors, tariff tables will be published and invoices issued in Q1 of the given charging year. However, the first year of the regime is expected to be an exceptional case due to when the regime is expected to come into force and specific requirements for the first year set out in the Act.[340] As such, invoices for the first year of the regime are expected to be issued later than will normally be the case. However, in all instances we note that the qualifying period pre-dates the charging year by two years and therefore providers should have time to consider their QWR ahead of notification to Ofcom and their annual budget setting processes. Whilst we acknowledge that a precise annual tariff can only be published once notifications have been received and Ofcom's online safety budget agreed, we have shared the indicative 0.02 - 0.03% tariff for planning purposes and anticipate that tariffs will become less uncertain as confidence in the expected QWR base increases over time. We intend to set out the detail of this process in our SoCP consultation, which we expect to publish in Q4 2025.

7.85 In the event that fees collected against our estimated costs exceed realised costs, it is our intention that this will be handled in common with our approach to other Ofcom regulated sectors.[341] Rather than providing rebates, any over or under recovery of expenditure is carried forward to the next charging year. In particular, in that next charging year, the

[337] MSPG, page 4.
[338] Google, pages 17-18; Uber, page 3; Online Travel UK, page 6.
[339] X, pages 6-7.
[340] See the implementation timeline in chapter 1. The regime is expected to come into force Q4 2025 with the Act requiring providers to notify within 4 months in relation to the initial charging year. Due to the need to verify notifications, publication of tariff table and issue of invoices is expected to take place in Q2 of the charging year. From year 2 onwards providers are required to submit notifications no later than 6 months before the charging year, allowing more time for verification of submissions and for tariff tables and invoices to be issued in Q1 of the charging year.
[341] For example, see paragraphs 1.16 to 1.17 in the SoCP for the Broadcasting sector.

allocation of the planned spend by regulatory sector is adjusted to reflect the over or under recovery carried forward from that regulatory sector from the previous year. This is also in line with the requirement in section 88(8) of the Act that any deficit or surplus shown in the statement published by Ofcom after the end of each charging year[342] must be carried forward and taken into account in determining fees in relation to the following year.

7.86 Regarding one respondent's request for an opportunity to engage with a provisional determination of their fee prior invoicing,[343] we do not consider that this is necessary. In the case of online safety fees, the provider will notify us of their QWR, upon which we will apply the single percentage fee and calculate their fees. Should we dispute a provider's QWR, we anticipate engaging with the provider to resolve this dispute. We note that this is aligned with the invoicing process for other fees regimes implemented by Ofcom.

7.87 In relation to one respondent's suggestion to have a designated point of contact for fee-paying services which do not regularly engage with Ofcom,[344] we will continue to engage with fee payers before and after the regime comes into force. Additionally, our Supervision team already acts as a point of contact for a number of potential fee-paying services, and we intend for this to continue going forward.

[342] Section 88(7) of the Act.
[343] X, page 6.
[344] Meta, page 9.

8. Notification

Summary

What is this chapter about?

In this chapter, we set out our final decisions on the supporting evidence, documents, or other information that providers must supply to Ofcom for the purposes of making a fees regime notification under 83(1)(a) or (b)(i) of the Act, as set out in the Notification Regulations[345] under section 85(2) of the Act (see Annex 4).

What have we decided?

We have decided to retain our Notification Regulations as consulted on in October 2024. We have also decided to retain but amend the Manner of Notification document with a small number of clarificatory changes primarily to add further detail with regards to the way providers liable for fees are required to submit their notifications.

In Q3 2025, we expect to publish a consultation on additional guidance (Notification guidance) which will provide further details and guidance on the notification process and the required documentation.

Why are we making these decisions?

To assist providers complying with their notification requirements under the Act and the Notification Regulations, when they come into force.

Introduction

8.1 The Act requires providers of regulated services to notify Ofcom in particular circumstances relating to the payment of fees (unless they are exempt).[346] Those notifications must include particular details, which differ depending on the notification type, as explained in Table 8.1 below.

8.2 In this chapter, we summarise our consultation proposals in relation to the notification requirements, and then set out our final decisions and the reasoning behind them after having carefully considered consultation responses.

8.3 As shown in Table 8.1, all notifications under section 83(1) of the Act must include details of all the provider's regulated services. Where a provider is making an initial notification (see row 1) or new fee cycle notification (see row 2), these must also include details of the provider's QWR and any supporting evidence, documents or other information required under the Notification Regulations.

8.4 Where a provider has not notified us as and when they are required to do so under the Act, such as when they have failed to notify or have provided incomplete or inaccurate

[345] At the time of publication, these are subject to Parliamentary approval. An unofficial copy of the regulations is annexed to this statement.

[346] Subject to the Secretary of State's approval, under section 83(6) of the Act, Ofcom may exempt particular descriptions of providers of regulated services from the duty to notify and the duty to pay fees. Please see chapter 5 of the statement for our decision on exemptions.

information in their notification, we may take enforcement action, including opening an investigation and requiring the provision of information to obtain or verify information in relation to the provider's QWR.

Table 8.1

Row	Notification type	When it arises	Details to be included[347]
1	**Initial notification** (Notification under section 83(1)(a) of the Act)	Where it is the first fee-paying year[348] for that provider	• Details of all the provider's regulated services • Details of the provider's QWR for the qualifying period that relates to that charging year • Supporting evidence, documents or other information as required in the Notification Regulations
2	**New fee cycle notification** (Notification under section 83(1)(b)(i) of the Act)	Where the previous charging year *was not* a fee-paying year, and the charging year in question *is* a fee-paying year[349]	• Details of all the provider's regulated services • Details of the provider's QWR for the qualifying period that relates to that charging year • Supporting evidence, documents or other information as required in the Notification Regulations
3	**Non fee-paying year notification** (Notification under section 83(1)(b)(ii) of the Act)	Where the previous charging year *was* a fee-paying year, and the charging year in question *is* not a fee-paying year[350]	• Details of all the provider's regulated services

[347] Section 83(3) of the Act.
[348] A 'fee-paying year' is a charging year where the provider's QWR for the qualifying period that relates to the charging year is equal to or greater than the QWR threshold figure, and the provider is not exempt from the duty to notify and the duty to pay fees.
[349] Applies to any charging year after the first feepaying year.
[350] Applies to any charging year after the first fee-paying year.

Our Proposals

8.5 In our October consultation, we explained our proposals in relation to the supporting evidence, documents, and other information that providers must supply to us for the purposes of making their notification under the online safety fees regime. We also published draft Notification Regulations to reflect our proposals.

8.6 Under the draft Notification Regulations, where a provider of a regulated service is making an initial notification or new fee cycle notification, we proposed that the notification must include:

i) Where the charging year is the provider's first fee-paying year, a statement of that fact;
ii) evidence substantiating the details of all regulated services provided by the provider and the provider's QWR for the qualifying period that relates to that charging year; and
iii) a declaration affirming that the evidence provided is accurate and complete in all material respects. Where the provider is an entity, we proposed that the declaration must be made by a senior manager[351] and in any other case, by an individual (whether acting as, or on behalf of, the provider) who is able to affirm the accuracy and completeness of the information in question.

8.7 To assist providers in understanding what they need to do in relation to notification for fees, we said that we intend to publish additional materials at a later date, which will provide guidance on the process of notification and include examples of the evidence, documents and other information which will need to be provided upon notification.

8.8 We further consulted on the draft Manner of Notification document to assist providers in complying with the manner in which evidence, documents and information must be provided to Ofcom. Our proposal was that providers submit their evidence and information by electronically completing an online submission.

Stakeholder Responses

8.9 We received seven responses[352] in relation to our notification proposals. One respondent[353] fully agreed with the proposals relating to supporting evidence noting the need for appropriate and fulsome evidence.

8.10 However, most respondents[354] commented on the lack of clarity and details in relation to the information and evidence required for the fees notification. They commented that based on the draft Notification Regulations, it remains unclear what evidence is required for the QWR verification. One respondent further queried whether the same or similar evidence will be requested annually via RFI, as this was not set out in the consultation document or the annexed materials.[355]

[351] This term has the meaning set out in section 103(4) of the Act.
[352] Hammy Media Ltd, page 4; [✂]; MCF, page 3; MSPG, pages 3-4; Meta, pages 10-11; Google, page 12; Online Travel UK, pages 3 and 8.
[353] MCF, page 3.
[354] Meta, page 10; MSPG, page 3; Hammy Media Ltd, page 4.
[355] Meta, page 9.

8.11 Respondents[356] therefore requested that we provide clear guidance as to what information providers are required to share with us as part of their fees notification or their response to information requests.

8.12 One respondent[357] also requested that we consider proportionality in the level of detail requested from providers with straightforward revenue structures, limiting to what is strictly necessary. They requested that we ensure the requirements do not impose unnecessary administrative burdens on providers.

8.13 Another respondent suggested that Ofcom provides guidelines on minimum documentation expected to support QWR, taking into account the flexibility in methodology afforded and the need to enable providers to simplify their approach and avoid unnecessary churn.[358] The same respondent[359] noted that requests should take into account information that has already been provided to Ofcom and reduce the burden on requesting the same data in a different format (e.g. if a provider has already provided details of their regulated services). They suggested inconsistent or unpredictable notification and audit processes will also likely increases costs for Ofcom.

8.14 In relation to the proposed Manner of Notification document, two respondents noted that it was generally acceptable[360] or appropriate.[361]

8.15 We received comments from two respondents on the senior manager declaration annexed to the Manner of Notification document. One respondent[362] said that they do not think the declaration is necessary, as we will be verifying the provider's QWR, and requested its removal. However, if it is retained, they propose that we state explicitly in the Manner of Notification document that this declaration will not result in any liability attaching to the senior manager in question under section 110 of the Act.

8.16 On the other hand, another respondent[363] noted that the declaration adds weight to the evidence and allows us to rely on this when pursuing an enforcement action. However, they queried whether any fraudulent information would result in a criminal sanction rather than just a financial penalty.

8.17 In relation to the timeframe for notifications, one respondent noted that the timeline for notifications should be as consistent as possible year on year for effective planning.[364] There was also a comment in relation to the timeframes for information requests, three respondents[365] noted that Ofcom should clarify that it will allow service providers sufficient time to generate the requested information and that Ofcom should work with providers to set appropriate deadlines, recognising the complexities of gathering such information in large, international businesses.

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[356] Hammy Media Ltd, page 4; MSPG, pages 3-4.
[357] Hammy Media Ltd, page 4.
[358] [✂].
[359] [✂].
[360] Hammy Media Ltd, page 4.
[361] MCF, page 3.
[362] Meta, page 10.
[363] MCF, page 3.
[364] [✂].
[365] Google, page 12; Online Travel UK, pages 3,8; Skyscanner, page 3.

8.18 Finally, there was a request from one respondent[366] that Ofcom provides adequate support and guidance for providers during the initial implementation phase, while another[367] asked for an opportunity to review and comment on Ofcom's proposed approach to Notification guidance materials before they are finalised.

Our decisions

8.19 For the reasons set out below, we have decided to broadly retain our consultation proposals. In particular, to:

i) Make the draft Notification Regulations, as proposed in the consultation. The Regulations are expected to be laid in Parliament under the negative procedure.[368]

ii) Retain the Manner of Notification document with some limited amendments, as set out in Annex 5.

iii) Make no changes to the accompanying template declaration and statement forms (see Annex 5.1 and Annex 5.2 to the Manner of Notification document). These are required to be filled in and submitted by notifying providers, as prescribed in the draft Notification Regulations.

8.20 In Q3 2025, we expect to consult on guidance (Notification guidance) where we will provide further guidance on the process and requirements for notification as a potential fee payer under the regime, including examples of the required documentation for the notification process.

Our reasoning

8.21 We have carefully considered stakeholders' request for greater clarity and guidance on the notification requirements for liable providers.

8.22 Our view remains that the information specified in the Notification Regulations, as consulted upon, provides an appropriate level of detail and we are not persuaded that it would be appropriate to include more prescriptive detail in the Notification Regulations themselves. We note, in this regard, that they provide additional detail to that included in section 83 of the Act itself, including that:

i) where a provider of a regulated service is making an initial notification, its notification should include a statement of that fact;

ii) in the case of an initial notification or new fee cycle notification:

a) Its notification should include evidence substantiating the details of all regulated services provided by the provider and details of the provider's qualifying worldwide revenue. Regulation 3(3) also provides that where possible, that evidence must substantiate the details by reference to information in financial statements or other documents prepared for accounting purposes; and

[366] Hammy Media Ltd, page 4.
[367] Meta, pages 9-10.
[368] A statutory instrument laid under the negative procedure becomes law on the day the Minister signs it and automatically remains law unless a motion – or 'prayer' – to reject it is agreed by either House within 40 sitting days. See Negative procedure - UK Parliament.

b) a declaration from a senior manager as defined in section 103(4) of the Act[369] affirming the accuracy and completeness of the information.

8.23 Whilst we have considered whether further prescriptive detail should be added to the Notification Regulations, we are concerned that doing so may not be appropriate in this case given the range of different providers and regulated services that may be in scope of fees and given our desire that the Notification Regulations remain sufficiently flexible over time and acknowledging that these are the early stages of implementation of the fees regime. We further acknowledge that a provider's relevant supporting information might appear in different forms and sources, and are concerned that being even more prescriptive may place an unduly onerous burden on certain providers. This might be especially the case for providers who have been incorporated and/or operate in different jurisdictions. Therefore, we believe that this is a proportionate approach in the circumstances and the Notification Regulations encourage a transparent and stable notification process for providers that will need to comply with their duty under the Act.

8.24 Notwithstanding the above, we recognise the desire from stakeholders to have greater clarity about the level of information and evidence to be provided in their notifications. We proposed in the consultation that such evidence will likely include an explanation of the source of the data used (e.g. audited financial statements and management information); supporting calculations of QWR (e.g. by regulated service and type of revenue); a reconciliation of QWR and non-QWR amounts to annual financial statements (where possible); details of how revenue has been apportioned to relevant parts of regulated services (where relevant); and details of exchange rates used. We note that no stakeholders commented on this, and it remains our view that this is the type of evidence that we are likely to expect in notifications.

8.25 We intend, however, to consult on the Notification guidance about providers' notification requirements in due course, and to publish our final guidance before the notification window opens. We expect this guidance will include examples of the evidence, documents and other information mentioned above as well as guidance on the process of notification.

8.26 We note that notification requirements will apply to all liable providers regardless of their corporate and revenue structures. The Notification Regulations (and the accompanying guidance) will provide a clear notification framework for liable providers.

8.27 In addition, we will continue to offer support through our supervisory function and otherwise to support providers in navigating the notification process particularly in their first charging year. The set up of an online portal is expected to provide a clear, accessible and secure way for providers to submit their information to us. If this is not available, providers will need to submit their QWR Return by such alternative secure electronic means as are specified by Ofcom on its website. (e.g. via Ofcom's secure Managed File Transfer mechanism that is used by other Ofcom sectors and elsewhere in the Online Safety regime). This has now been clarified in the Manner of Notification document in Annex 5 and will be expanded upon in our Notification guidance consultation and aims at ensuring that providers will always be provided with a way to securely submit their notifications to us.

[369] And in any other case, by an individual (whether acting as, or on behalf of, the provider) who is able to affirm the accuracy and completeness of the information in question.

Declaration from senior manager

8.28 We have further noted one respondent's comment[370] that the declaration of accuracy from a senior manager is not necessary. We consider that it is an appropriate and proportionate requirement for a senior manager of the notifying providers to confirm the accuracy and completeness of the information submitted to us. Failure to submit this declaration will lead to an incomplete notification and to potential enforcement action. Senior manager's liability and offences under section 110 and 113 of the Act would not apply in relation to declarations made as part of the statutory notification.[371] In response to one respondent's query about consequences of sharing fraudulent information,[372] we note that a financial penalty isn't the only option available to Ofcom in cases of fraud or non-compliance with the notification requirement or a statutory information request. [373]

Period for notification and Requests for Information

8.29 With regards to the time period given to providers to generate the information requested, the Act itself stipulates the time windows within which providers should notify us of their fees liability. In the initial charging year, this would be four months from which the date the QWR Threshold Regulations come into force, which we expect to take place in Q4 2025. In relation to subsequent charging years, providers would need to notify us at least six months before the beginning of the charging year to which the notification relates.[374]

8.30 As we noted in our consultation, where providers of regulated services do not need to notify us under section 83(1) of the Act but are still liable to pay fees in a given charging year,[375] we will issue RFIs on a rolling basis every charging year to ascertain their QWR so that we can invoice them accordingly.[376] We expect similar information to be requested each charging year with potential slight variations to enable us to verify their QWR and charge providers accordingly. If providers are sent an information notice, Ofcom will allow providers sufficient time to gather and submit the required information.

8.31 We would expect these notices to be shared in draft form with providers in the second charging year to ensure that they are appropriately targeted and sufficiently clear for recipients to respond within the proposed timeframe. It is not clear to us that a draft would be necessary in future years as we expect similar information to be requested each charging year thereafter, although we note that this is not a decision we need to take now. In any event, we note that if providers are requested to furnish information in response to an information notice, we will allow providers sufficient time to gather and submit such information.

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[370] Meta, page 10.
[371] It remains open to Ofcom, however, to require under section 103 of the Act that a senior manager be named in respect of information notices and senior manager liability would apply in that case.
[372] MCF, page 3.
[373] Section 133 of the Act provides Ofcom with the power to require a person to take remedial action or other steps to comply with a notified requirement under the Act. Section 133(9) stipulates that the confirmation decision requiring such steps is ultimately enforceable in civil proceedings.
[374] Section 83(5) of the Act.
[375] For instance, if they remain above the QWR threshold in subsequent years following their first fee-paying year.
[376] As explained above, providers are only required to provide a fees regime notification to Ofcom in certain circumstances and will not have to do this every charging year.

8.32 Finally, we have noted one respondent's concern about information that has already been requested and submitted in a different format.[377] We will seek to minimise duplicative requests for information if we seek the provider's consent to rely on existing information. However, in either the case of a RFI or a notification, we would calculate and impose fees based on the provider's most recent and updated data.

8.33 For the reasons set out above, we have decided to retain our consultation proposals on notification and draft Notification Regulations without any amendments. We have only clarified the way providers are required to notify and submit their supporting evidence in the Manner of Notification document.

8.34 We have decided to consult on and publish the Notification guidance in Q3 2025, before the first notification window opens.

8.35 The draft Notification Regulations are expected to be laid in Parliament under the negative procedure and, subject to that procedure, will come into force once the 40-days for an annulment motion has passed.

[377] [≫].

9. Further matters

Chapter overview

9.1 We received a large number of comments which did not relate to the broad thematic areas of the consultation. As these comments touched on a variety of topics, we have grouped them in the following sections:

i) Administrative burden and verification of QWR;

ii) Confidentiality;

iii) Use of money from penalties.

9.2 Additionally, we received two responses on our proposal for the transitional arrangements for VSP platforms. We have considered these comments and set out our final position below.

Administrative burden and verification of QWR returns

Stakeholder responses

9.3 Two respondents highlighted that in addition to the fees themselves, compliance with the fees regime places a significant burden on online service providers, who will be required to take on additional legal, compliance and accounting expenditures at the expense of investment elsewhere in their businesses.[378] One of these respondents[379] encouraged tailored engagement with specific providers where possible to make the process as smooth as possible and mitigate the risk of misinterpretation of terms such as 'just and reasonable'.

9.4 The same respondent[380] added that when verifying QWR notifications, we should distinguish between accidental non-disclosure and a deliberate manipulation of accounts. Furthermore, they want to ensure that Ofcom has the specialist expertise required to examine and audit accounts in instances of non-compliance or challenges. In both cases, they suggested that the presence of independent external auditors might assist.

Our response

9.5 We understand that the OS fees regime is new to providers of regulated services and, where appropriate, we will aim to actively engage with providers. We will consult on the QWR and Notification Guidance in Q3 2025, which will give providers further opportunity to engage with us on this matter. We will also establish a discussion forum to give providers opportunities to share their views. Furthermore we intend the QWR Guidance to evolve over time to reflect best practice and drive consistency.

[378] techUK, page 8; X, page 6.
[379] techUK, page 8.
[380] techUK, page 8.

9.6 Ofcom has extensive market intelligence and expertise in verifying revenues for all other sectors that we regulate. Ofcom's information gathering powers also enable us to seek further information and clarification regarding information received. As such, we do not consider that it is necessary to engage independent auditors as a matter of course, although we may seek external advice if necessitated by the circumstances.

9.7 As explained in the notification chapter, in cases where a provider fails to notify or provides incomplete or inaccurate information, we may take enforcement action in line with our Online Safety Enforcement Guidance; including opening an investigation and requiring the provision of information to obtain or verify information in relation to the provider's QWR. Our guidance explains that decisions about whether to open investigations will be made on a case-by-case basis, having regard to our statutory duties and all the matters that appear to be relevant. When making decisions about whether to open investigations and take enforcement action, we would expect to consider the seriousness of the alleged conduct or contravention, including whether the allegation concerns conduct that is, or appears to be, a repeated, intentional, systemic, or particularly flagrant contravention.[381]

Confidentiality

Stakeholder responses

9.8 We received several comments in relation to confidentiality and the treatment of confidential information. Most respondents noted that Ofcom should not publish any confidential or commercially sensitive information relating to particular providers and it should explicitly confirm its intention not to do so.[382] One respondent added that there might be commercial sensitivities around publishing country-specific revenue figures.[383]

9.9 Two respondents noted Ofcom should explicitly confirm in the SoCP and in any RFIs that its intention is not to publish or disclose to any parties the information flagged by respondents as confidential and the amount of fees that a service is subject to.[384] Similarly, another respondent suggested that Ofcom should include a statement about confidentiality in the statement or the SoCP.[385]

9.10 Another respondent added that Ofcom should adopt a fair and transparent approach in relation to our treatment of confidential information.[386] The same respondent requested that confidential information provided for verifying QWR should not be shared, disclosed or utilised for other purposes.

9.11 Two respondents[387] noted that Ofcom should recognise that it will only publish the minimum level of information required to carry out our functions with one of those respondents noting that it should only occur with the prior consent of the provider.[388]

[381] Paragraph 3.9 of Online Safety Enforcement Guidance.
[382] techUK, page 6; Apple, pages 13-14; X, page 5; Google, pages 19-20; Online Travel UK, page 8; Skyscanner, page 3.
[383] techUK, page 6.
[384] Online Travel UK, page 8; Skyscanner, page 3, said they supported Online Travel UK's position.
[385] Apple, pages 13 -14.
[386] X, page 5.
[387] Google, pages 19-20; Apple, pages 13-14.
[388] Google, pages 19-20.

9.12 Three respondents[389] suggested that if publication of commercially sensitive information is absolutely necessary, Ofcom should commit to aggregating or summarising such information so that it is not attributable to a single provider.

Our response

9.13 Under section 393 of the CA03, Ofcom cannot disclose any information which relates to a particular person's business which has been gathered through the exercise of our statutory functions (including the fees regime notifications or information notices) unless we have that person's consent, or we are required or permitted to do so (for example, because we consider it is necessary to enable us to carry out our regulatory functions). This includes our functions under the Act.

9.14 We also recognise that much of the information provided as part of the fees regime notifications or in response to subsequent statutory information requests is likely to be confidential and commercially sensitive. In February 2025, Ofcom published its final Online Safety Information Powers Guidance which provides details about how Ofcom treats confidential information in accordance with our statutory obligations, and the circumstances in which we may disclose such information (and the process we would expect to follow before doing so).[390] Stakeholders are encouraged to refer to the Guidance for more details.

9.15 For the avoidance of doubt, Ofcom does not expect to publish commercially sensitive information about particular regulated services or providers obtained as part of the fees regime, including information about country-specific revenues that is not otherwise publicly available or the actual fees they are required to pay.

9.16 In cases where we would like to use the information we have acquired for a different purpose, we will generally send the recipient another statutory information notice or as an alternative, explain why we need to use the information for a different purpose and ask for the recipient's consent to use it for this new purpose.[391]

9.17 We note that Ofcom is required in certain circumstances to disclose information to third parties under the Freedom of Information Act 2000 (FOI Act). However, there are exemptions that Ofcom could rely on to refuse disclosure of information in response to an FOI request, if specific conditions are met. Section 43 of the FOI Act, for example, provides for an exemption from disclosure of information that relates to the commercial interests of a legal person. Whilst each FOI would need to be reviewed on its own merits, we envisage that this exemption is likely to be particularly relevant to FOI requests that relate to information provided as part of the fee notification process.

Use of money from penalties

Stakeholder responses

9.18 One respondent[392] suggested that a percentage of fines should be used to financially support vulnerable people online (by providing support to services such as the Revenge

[389] Google, page 20; techUK, page 6; [✂].
[390] Online Safety Information Powers Guidance; See also our updated General Policy on Information Gathering.
[391] Online Safety Information Powers Guidance, paragraphs 3.24 – 3.26.
[392] UKSIC, page 4.

Porn Helpline and the Professionals Online Safety Helpline) and provide insights into online experiences to the Government and Ofcom.

Our response

9.19 Whilst we understand the importance of services that support vulnerable people online, Ofcom does not have any control on the destination of financial penalties imposed under Chapter 6 of Part 7 of the Act. As required by section 400 of the CA03, any amounts paid to Ofcom in respect of a penalty imposed by them must be paid into the Consolidated Fund of the United Kingdom managed by HM Treasury.

Transitional Arrangements for Video-Sharing Platforms

Our proposals

9.20 Following a transition period, the UK VSP regime in Part 4B of the CA03 will be repealed (see legal framework at Annex 2 for details). When the transition period ends, VSPs with the required UK links, will be regulated in the UK under the Act as user-to-user services, and the online safety fees regime will apply to them in the same way as to other providers of regulated services under the Act. For more information about VSP repeal and timings please see our website.[393]

9.21 During the transition period, most of the duties under the Act do not apply to VSP providers, subject to certain exceptions, as outlined in Schedule 17 to the Act. During the transition period,[394] the online safety fees notification duty under section 83 of the Act does apply to pre-existing VSPs,[395] although they will be exempt from the requirement to pay fees.[396]

9.22 If the regulated VSP element of the service is a dissociable section (in other words, a separable part) of a wider regulated service under the Act, then the exemption from paying fees will only apply to the VSP part of the service.[397]

9.23 To assist these particular providers, Ofcom may produce a "statement giving information about the circumstances in which amounts do, or do not, count as being wholly referable to a relevant Part 4B service".[398] However, in the consultation we proposed not to issue such a statement because we considered it would only be relevant and useful to a very limited number of providers, if any, and it is anticipated that the VSP regime is likely to be repealed before the online safety fees regime is implemented.

9.24 However, we noted that in the event that the VSP regime is not repealed before the fees regime is implemented and a VSP provider does need assistance in ascertaining the circumstances in which amounts do, or do not, count as being wholly referable to a relevant Part 4B service, we would intend to provide such assistance as needed by engaging with the

[393] Repeal of the VSP regime: what you need to know, 11 January 2024.
[394] Paragraph 16(2) of Schedule 17 to the Act.
[395] In other words, they meet the scope and jurisdiction criteria under Part 4B of the CA03.
[396] Paragraph 18 of Schedule 17 to the Act.
[397] Paragraphs 18, 19 and 24 of Schedule 17 to the Act.
[398] Under paragraph 21 of Schedule 17 to the Act.

VSP provider concerned, such as through the supervision arrangements that we already have in place.

Stakeholder responses

9.25 Two respondents commented on our proposed approach to transitional arrangements for VSPs. Both were supportive of our approach with one[399] noting that given the limited number of providers affected, it appears reasonable to manage any issues through direct engagement rather than formal statements. The other respondent[400] made similar comments noting that it is a reasonable measure and limits unnecessary work for Ofcom given the VSP regime is likely to be repealed before the fees regime is implemented. They also noted that they welcome that Ofcom will still offer specific support for those VSP providers who seek it regarding what revenues are referable.

Our decision and reasoning

9.26 Given the feedback we received to our proposals (and our view remains that the VSP regime will be repealed before the fees regime is implemented), we have decided not to issue a statement under the VSP regime.

[399] Hammy Media Ltd, page 3.
[400] MCF, page 1.

10. Impact assessment

Scope and purpose of this chapter

10.1 Section 7 of the CA03 requires us to carry out and publish an impact assessment with respect to proposals that are likely to have a significant impact on businesses or the general public. We published an impact assessment based on our initial proposals as part of our consultation document (see chapter 5 of consultation document). We have now updated the impact assessment to include consideration of stakeholder comments received in relation to the impact assessment during the consultation and our policy decisions outlined in this statement.

10.2 Impact assessments provide a valuable way of assessing options for regulation and showing why the chosen option(s) was preferred. They form part of best practice for policy making and we therefore expect to carry them out in relation to a large majority of our proposals and policy decisions.

10.3 We use impact assessments to help us understand and assess the potential impact of our policy decisions before we make them. They also help us explain our policy decisions and why we consider that these decisions best fulfil our applicable duties and objectives in the least intrusive way. Our impact assessment guidance[401] sets out our general approach as to how we assess and present the impact of our proposed decisions.

10.4 As set out in section 7(5) of the CA03, we have discretion as to the substance and form of an impact assessment, and this will depend on the particular proposals or decisions being made. As further explained in the legal framework annex,[402] the Act itself provides that we must recover the costs associated with the exercise of our online safety functions through fees levied on the providers of regulated services. Therefore, this impact assessment is not assessing the impact of levying fees per se, as we do not have discretion over this.

10.5 This impact assessment assesses the impact of policy decisions over which we do have discretion – specifically those decisions concerning how the fees are levied, which would influence how different stakeholders are affected by the fees regime. The detailed rationale for our approach is set out in previous chapters and is not repeated here.

10.6 We have considered in the round the impact on providers of our decisions as a package, including:

i) A definition of QWR for the purposes of the fees regime and when determining the maximum penalty cap, as the total amount of revenue the provider receives worldwide, that is referable to the relevant parts of all its regulated service(s) (at chapter 3).
ii) A different, broader definition of QWR for the purpose of calculating the maximum cap on penalties where we find two or more entities jointly and severally liable for a contravention; for example, the provider and the parent company (at chapter 6).

[401] Impact assessment guidance (ofcom.org.uk).
[402] Annex 2.

ii) A proposed QWR threshold figure of £250 million to determine which providers could be liable to pay fees, as well as our proposal that setting the threshold anywhere in the range of £200 to £500 million could be appropriate (at chapter 4).
iii) An exemption from fees duties (duty to notify and duty to pay fees) for providers whose UK referable revenue is less than £10 million in a qualifying period (at chapter 5).
iv) An approach to setting fees such that all qualifying providers pay an amount equal to a single percentage of their QWR (at chapter 7).

10.7 Further, impact assessments which relate to proposals about the carrying out of our online safety functions under the Act must include an assessment of the likely impact of implementing the proposal on small and micro businesses.[403] We therefore included an assessment of the impact of our proposals on small and micro businesses in our October consultation and set out an updated assessment below.

10.8 We have assessed the impacts of our decisions as follows:

i) Direct impacts on different kinds of regulated service providers, including micro and small providers, medium-sized providers, and large providers; and
ii) Potential indirect impacts and wider considerations.

10.9 Overall, our impact assessment remains broadly unchanged from the provisional assessment set out in our consultation.

Direct impacts on small and micro providers of regulated services

10.10 As noted, we have a specific duty to consider impacts on micro and small businesses, relying on the commonly used definitions across many government bodies. For simplicity, these are based on employee numbers only: a small business is defined as one with 10-49 full-time employees and a micro business is one with fewer than 10 full-time employees (in either case, this may include employees not based in the UK).[404]

10.11 Since we recommend a QWR threshold of £250 million, small and micro providers would be extremely unlikely to be required to pay fees. The same applies under any other threshold within the range of £200 million to £500 million which we have explained we consider appropriate in chapter 4. We therefore do not expect any material direct impacts on these providers.

10.12 We consider that limiting the impact on these providers is consistent with the proportionality principle and with our duties, including with respect to competition and innovation. We consider that small and micro companies can offer welcome diversity and innovation in the provision of online services, and that such benefits could be reduced if barriers to entry or expansion for these providers were to increase due to the introduction of fees. If such services were in scope, as well as incurring the cost of paying fees, they may

[403] Section 7(4B) CA03, as inserted by section 93(4) of the Act.
[404] We recognise that not all government bodies use exactly the same definitions. For example, some also refer to revenue and assets. The definition we propose, which we also used in our consultations on draft Codes of Practice for regulated services, is consistent with that used by the Regulatory Policy Committee. It would not make a material difference to our impact assessment if another common definition of small and micro businesses (such as that consistent with the Companies Act 2006) were used instead. Source: Regulatory Policy Committee, 2019, Small and Micro Business Assessments: guidance for departments, with case history examples.

incur other administrative costs (e.g. preparing information and submitting notices), which may affect smaller providers disproportionately if they lack relevant existing compliance functions and capabilities.[405] Where the administrative cost of complying with regulation is disproportionate, this could affect growth and investment.

Direct impacts on medium-sized providers of regulated services

10.13 As explained in chapter 2, the Secretary of State's guidance to Ofcom sets out an intent to limit the impact on small and medium-sized businesses. Having already considered the impact on small providers above, in this subsection we consider the impact on medium-sized providers. In doing so, we consider the £54 million revenue threshold used in the Companies Act 2006 alongside other metrics,[406] noting that alternative revenue thresholds, but of the same order of magnitude, are sometimes used in other contexts such as UK Government procurement, as explained in chapter 4.

10.14 Under our approach, with a QWR threshold figure of £250 million, medium-sized providers (i.e. those whose revenue is less than £54 million) would not be required to pay fees. The same applies under any other QWR threshold within the range of £200 million to £500 million which we would consider appropriate, as explained in chapter 4. Similar to the discussion on small and micro providers above, we consider this consistent with the proportionality principle and our duties with respect to competition and innovation. We consider that medium-sized and smaller companies alike can offer welcome diversity and innovation in the provision of online services. The cost of paying fees, plus associated administrative costs, could create barriers to entry or expansion for these providers and could affect investment and growth.

10.15 Under the definition of medium-sized companies in the Companies Act 2006, it is possible for a company to be classed as medium-sized even if its revenue is at least £250 million, if it satisfies the balance sheet and employee criteria to qualify as a medium-sized company i.e. it has less than £27 million in assets and fewer than 250 employees. However, we expect that any such cases would be extremely unlikely in practice and did not receive evidence in response to our consultation which contradicts this.

10.16 In response to our consultation, one respondent said it thought our assessment of the impacts of our proposals was reasonable but that it is important for Ofcom to recognise in its final statement that it will review its approach within a certain time period (in particular to consider whether micro businesses or SMEs should pay fees in future).[407] For the reasons set out above, we are satisfied that the impacts on micro, small and medium sized providers of regulated from our decisions are appropriate and in line with the Secretary of State's guidance to Ofcom. Whilst Ofcom does not intend to proactively review the level of the QWR threshold (which is ultimately a matter for the Secretary of State to decide) within a set period of time, we note that we could provide further advice to the Secretary of State in future should this be requested.

[405] See e.g. Federation of Small Businesses, 2021.
[406] Other criteria relate to the value of assets and number of employees. See section 465 of the Companies Act 2006.
[407] MCF, pages 4-5. This respondent also suggested that the penalty structure should be expanded to take in micro businesses or SMEs; for the avoidance of doubt, Ofcom is able to impose financial penalties for contraventions of the Act on any providers of regulated services irrespective of their size.

Direct impacts on large providers of regulated services

10.17 To assess impacts on large providers,[408] we consider large providers to be those that exceed the £54 million revenue figure used in the Companies Act 2006 (alongside other metrics),[409] noting that alternative revenue thresholds but of the same order of magnitude are sometimes used in other contexts, as explained in chapter 4.

10.18 Under our proposals, a subset of large providers – those that meet or exceed the £250 million QWR threshold and do not qualify for an exemption – would be required to pay fees, expected to be equal to approximately 0.02 - 0.03% of their QWR. Additionally, providers would have to pay additional fees to cover initial regulatory costs incurred prior to implementation of the fees regime, although proposals relating to additional fees will be consulted on separately by the Secretary of State and are not within the scope of this statement.

10.19 In assessing the impact of our proposals, we recognise that large providers can themselves also be an important source of competition, investment and innovation in the UK. However, we consider that the fee amounts – as calculated using a percentage of QWR – would be relatively small, compared to the revenues and resources available to these providers. This should mitigate any adverse effects, ensuring that – even though a variety of providers would be in scope – those with the greatest resources account for a higher share of total fees collected.

10.20 In response to our consultation, one respondent[410] suggested that Ofcom's evidence-gathering in advance of the consultation was "inadequate" and raises significant doubts about our impact assessment; including the claim that the largest five providers account for 90% of total QWR and that fee amounts paid by larger providers are still manageable and small relative to their QWR.

10.21 As explained in Annex 6, we accept there is a degree of uncertainty about the exact number of providers that will be liable to pay fees, their QWR and the resulting percentage fee applied. Nevertheless, our analysis based on the available evidence gives us confidence that the largest providers will be liable for the majority of fee payments and that the fee amounts payable by them (and other providers) will be small relative to their QWR.

10.22 We also acknowledge that providers who are liable to pay fees may incur additional administrative costs, other than paying the fees themselves. For example, providers may incur staff costs to familiarise themselves with the fees regime, to estimate revenues for the qualifying period (e.g. in cases where this does not align with the company's accounting periods), or to calculate revenue that is referable to a regulated service (e.g. where this entails using a revenue attribution method). Providers may incur material administrative costs initially if developing relevant processes or methods, potentially with lower costs on an ongoing basis as the same processes or methods are applied each year. These costs are

[408] Note that this is distinct from our proposed definition of large services included in our draft Codes of Practice, based on a service having more than 7 million monthly UK users. These definitions are unrelated, as one pertains to services and one to companies, although they are likely to be correlated, as large services are more likely to be operated by large companies than smaller companies. The focus on providers in this impact assessment reflects that fees are levied at *provider* level; in contrast, our draft Codes of Practice recommend safety measures based on the characteristics of individual services and therefore the impact assessments associated with our Codes of Practice proposals focus on assessing impacts based on the different kinds of *services* affected.

[409] Other criteria relate to the value of assets and number of employees. See section 465 of the Companies Act 2006.

[410] UKIE, pages 2-3.

not readily quantifiable, as they are highly dependent on the circumstances of each provider and its services.

10.23 We recognise that the cost of paying fees and any administrative cost of compliance involves an opportunity cost, as providers are unable to use those funds for other purposes, such as investing in improving their services, which could have adverse impacts. However, the Act itself provides that we will recover costs through fees levied on providers, so some opportunity cost is unavoidable. To the extent that our approach determines how costs are shared across providers, our assessment is that the approach is proportionate and unlikely to lead to significant adverse impacts, by requiring a subset of large providers to bear the total cost.

10.24 In determining the form, frequency and scope of the additional notification requirements to be set out in the Notification Regulations, and any RFIs we issue, our approach is to limit these to the minimum necessary for us to administer the fees regime to avoid imposing a disproportionate cost on businesses (see chapter 8 for details about notification requirements).

10.25 Overall, we expect that providers who meet the QWR threshold will typically have the capacity to pay these fees and incur any additional administrative costs without giving rise to material adverse effects, such as significantly reduced investment or withdrawal of regulated services from the UK.

10.26 However, we recognise that there may be exceptions to this, for example if providers meet the QWR thresholds but only have a small presence in the UK. In such cases, the costs could be disproportionate and material enough to discourage those providers from continuing to operate in the UK. Similarly, there could be a disincentive for large providers active in other geographies to enter the UK market. Such effects could ultimately harm UK users.

10.27 This risk of adverse effects is mitigated by the exemption for providers whose UK referable revenue is less than £10 million in a qualifying period. We recognise that providers seeking to make use of this exemption may incur some administrative costs (to calculate UK revenues and provide evidence of this where we issue an RFI requesting this information), which will vary depending on each provider's circumstances, but this should generally be less than the cost of paying fees. While we lack detailed evidence about large providers with a small UK user base, we consider it likely that an exemption threshold set at £10 million is at an appropriate level to mitigate the risk of adverse effects for the reasons set out in chapter 5.

10.28 We recognise that the approach would mean that large providers with QWR of less than £250 million, and large providers with QWR of at least or greater than £250 million but who meet the exemption, would not be liable to pay fees. Excluding these providers increases the fee amounts for those providers who are liable. We consider this consistent with the principles of proportionality and workability for the reasons explained in chapters 4 and 5. Assuming fees were around 0.02 - 0.03% of QWR, then any fee amounts collected from providers with QWR of less than £250 million would be less than the range of £50,000 and £75,000. We consider that the additional administrative costs for providers and for us in this scenario could become disproportionately high, given the relatively small incremental fee amounts being collected from these providers.

10.29 As discussed in chapter 5, some stakeholders raised concerns in response to our consultation about the risk that – even for providers that have UK referable revenue exceeding £10 million – the potential for fees liability based on aggregated worldwide

revenues may disincentivise them from providing new services in the UK, particularly where those services already have significant worldwide revenues. Some even suggested that any UK referable revenue exemption should be applied on a service-by-service, rather than provider level, for this reason. However, for the reasons set out in that chapter, we are not persuaded that, for providers which already have UK referable revenues close to or exceeding £10 million, the risk of fees being a disincentive to the introduction of further regulated services into the UK is material, or such that it justifies an increase in the level of the UK referable revenue exemption beyond £10 million. Even where such services have small or negative profit margins, our assessment is that the impacts would be proportionate considering the approximate level of fees due, relative to the size of the provider. We also note that our definition of QWR focuses on revenues arising from the relevant parts of regulated services rather than necessarily all parts of the regulated service, or non-regulated services, which also mitigates the risk of fees liability adversely impacting incentives to introduce new services into the UK.

10.30 Finally, we note that we have considered the concern raised in response to our consultation that some providers of regulated services – particularly in certain sectors like the online gaming industry – may be liable to pay disproportionately high fees, particularly where they provide services with minimal or ancillary user-to-user interaction. However, the single percentage fee approach means that in-scope providers of regulated services – whether gaming companies or other companies – always pay a fee that is proportionate to their QWR. As noted above, we have also amended the definition of referable revenue in the QWR regulations to make clear that only revenues arising in connection with relevant parts of the regulated service are taken into account. Where a provider's revenues from such parts are minimal or ancillary, this can be reflected as part of a just and reasonable approach to calculating QWR[411] and may mean that the provider is not liable to pay fees or to pay lower fees than if QWR were based on revenues referable to all parts of its regulated services.

10.31 Although our analysis of direct impacts on a large provider has focused on the proposed QWR threshold value of £250 million, we consider that the same points would broadly apply regardless of where the threshold is set within our proposed range of £200 million to £500 million. The exact threshold figure chosen would directly affect a small subset of large providers whose QWR is within this range, determining whether they are required to pay fees or not and therefore whether they are subject to the impacts discussed in this subsection. As explained in chapter 4, we are satisfied that the proposed threshold of £250 million strikes an appropriate balance, ensuring fees are paid by a broad cross-section of providers, without imposing costs and administrative complexity on a disproportionately large number of providers.

[411] We acknowledge that calculation of QWR and any apportionment of revenue may be more straightforward in some cases (e.g. where all revenue is referable to a regulated service) and more complex in other cases, such as those where it also arises from non-regulated services or parts of the regulated services that are not 'relevant parts'. As a result, the administrative cost of compliance may be higher for some providers than for others. We consider such impacts unavoidable to ensure that fee amounts are calculated based on the level of referable revenue, which we consider essential for the approach to be proportionate. We intend to consult on apportionment guidance later in 2025, which will include some illustrative case studies, to help providers think about how they could apportion revenues to relevant parts of regulated service in line with the just and reasonable requirement.

Potential indirect impacts and wider considerations

10.32 The subsections above assess direct impacts on those providers who would be required to pay fees. In this section we summarise our assessment of potential indirect impacts and other relevant considerations.

10.33 With respect to competition, innovation and investment, as described above, we expect that our decisions should avoid material adverse impacts – to the benefit of UK businesses, consumers and citizens – by limiting the impact of the fees regime on micro businesses and SMEs, whilst ensuring that the fee amounts paid by larger providers are still manageable and small relative to their QWR. As part of this, the proposed exemption for services with less than £10 million UK referable revenue mitigates the risk of adverse impacts on competition, innovation and investment with respect to large providers who may have limited or no presence in the UK.

10.34 We acknowledge that businesses which are not required to pay fees could still be indirectly affected by our proposals. For example, larger providers who are required to pay fees might pass through costs as price increases to their customers; this could affect smaller companies who pay for advertising or other B2B services offered by those providers. However, given that it is necessary to levy fees on some providers to fund the cost of our online safety functions, such impacts are not avoidable. The level of fees indicates that these impacts are unlikely to be large and the use of a percentage fee ensures that the fee burden is spread across providers in a proportionate way.

10.35 We acknowledge that the use of a single QWR threshold and single percentage fee could theoretically have an adverse effect on some incentives. Providers whose QWR is lower than the threshold could have somewhat weakened incentives to grow, as they would be required to pay a fee – of approximately £50,000 - £75,000, assuming a £250 million threshold and 0.02- 0.03% fee – once they reach the QWR threshold. However, we consider such adverse impacts are unlikely to be material overall, because:

i) The level of the fee amount is unlikely to significantly affect incentives unless a provider is very close to the QWR threshold, and evidence on the distribution of QWR amounts suggests that very few, if any, providers are likely to be in this position currently; and
ii) even where a provider is close to the QWR threshold, the size of potential fees is not large enough to represent a material deterrent to long-term growth.

10.36 For similar reasons, we consider that the £10 million UK revenue threshold used as part of the proposed exemption is unlikely to create any material disincentive for companies to grow, for providers whose UK revenues are less than, but close to £10 million. For example, assuming fees were equal to 0.02 - 0.03% of QWR, a provider with £250 million QWR and £10 million UK revenue would be liable to pay £50,000 - £75,000, which we consider unlikely to undermine long-term incentives to expand in most cases.

10.37 We have also considered the impacts of our QWR proposals in relation to the calculation of penalty caps under the Act. The proposal to use the worldwide revenue approach when calculating the maximum penalty cap for a provider is intended to achieve higher penalty caps than would be the case if these caps were to be calculated on the basis of UK referable revenue. It is theoretically possible that a higher cap – and the implied possibility of facing higher financial penalties – could have adverse impacts on competition, innovation or investment, by dampening incentives for providers to provide regulated services to UK

users. However, actual penalty amounts are determined on a case-by-case basis taking account in the round of relevant factors in our Penalty Guidelines, and must be proportionate, which mitigates this risk.

10.38 Similar reasoning applies in respect of our proposal for a different, broader QWR definition for the purpose of calculating the maximum penalty that may be imposed on group undertakings on the basis of joint and several liability. This means that the maximum cap may be higher than if it were calculated only from the revenues of group undertakings from the provision of regulated services as discussed further in chapter 6.

10.39 On balance, our assessment is that any risk of adverse effects from our proposals will be outweighed by the benefit of ensuring that the caps act as effective deterrents. We expect them to reduce the likelihood of non-compliance, which could otherwise cause material harm to UK users.

10.40 We consider that our approach supports the funding of our online safety functions in a way that is consistent with our duties and with the principles outlined in the Secretary of State's guidance to Ofcom, including by limiting impacts on micro businesses and SMEs, while ensuring that the cost to those providers who are required to pay fees is proportionate to their QWR. With respect to potential maximum penalty amounts, our assessment is that the proposals support our objective of effective deterrence, which ultimately helps to protect users of regulated services. Therefore, we conclude that our approach is justified and proportionate.

The overview section in this document is a simplified high-level summary only. The decisions we have taken and our reasoning are set out in the full document.