

Call for evidence response form

OFCOM CALL FOR EVIDENCE

THIRD PHASE OF ONLINE SAFETY REGULATION: ADDITIONAL DUTIES FOR CATEGORISED SERVICES

Call for Evidence Response - May 2024

ISD welcomes the opportunity to respond to this important call for evidence on additional duties for categorised services. We also recognise the challenges the complexity of the Online Safety Act brings, especially in the context of the collective desire from the Government, Ofcom, and other key stakeholders to quickly and effectively implement and enforce the legislation and improve online safety in the UK.

However, as outlined below, we share the concerns outlined by the Online Safety Act Network [here](#) that Ofcom is not making use of the additional flexibility provided in the final Act that allows *either* size *or* functionality to be considered when assessing the levels of risk a service presents, and therefore the types of duties they should be subject to. Ultimately the intent of the Act is to effectively mitigate risks online, and we are concerned these proposals will leave important loopholes for certain small but high-risk services that will not be categorised.

While recognising the requirement for Ofcom to regulate in a targeted and proportionate way, and in practice to prioritise the most risky or harmful services, we fail to understand why Ofcom would appear to restrict itself beyond the provisions in the Act. In instances where a service could present high levels of risk, offer relevant types of functionalities, but fall short of the user number thresholds, we would be concerned that they would escape categorisation under Category 1 or 2b under the current proposals, and therefore be exempt from important additional duties that could enhance user safety, both on and off-platform.

Ofcom correctly notes that the size of a service has a significant impact on the speed and breadth of the dissemination of user-generated content on that service. However, this does not appear to account for cross-platform dynamics and the interconnected nature of the online ecosystem of platforms and services, where harmful content or activity is often initially

disseminated or coordinated on smaller platforms before migrating to larger platforms, for example in cases of targeted harassment or hate.

Without reliable public user numbers for many services, it is also very difficult to independently assess which services would be captured by the proposed thresholds, and in the forthcoming register of categorised services. This makes it difficult to assess whether the proposed approach will appropriately capture small, high-risk services that we encounter during our monitoring of platforms that play a key role in online extremism and hate.

We reiterate the following section from our [response](#) to the illegal harms consultation:

Size, while a significant factor, is not necessarily an accurate proxy for levels of risk... However, many platforms boasting a substantial user base likely in the millions in the UK, such as Telegram and Discord, cannot be considered 'small' and play a crucial role in the online ecosystem concerning terrorism, extremism, and hate, as evidenced by ISD investigations into terrorist, extremist, and hateful communities globally, including in the [UK](#), [Canada](#), [New Zealand](#), and [Germany](#). There are also a large number and wide range of even smaller platforms that are likely to pose significant and severe risks, as indicated by other examples from ISD research outlined above.

Chapter 3: Additional terms of service duties

Question 6: What can providers of online services do to enhance the transparency, accessibility, ease of use and users' awareness of their reporting and complaints mechanisms? In your response to this question, please provide evidence about what features make user reporting and complaints systems effective.

Please see Question 16.1 in our [response](#) to the illegal harms consultation.

Chapter 5: User empowerment duties

Question 29: What features exist to enable adult users to have greater control over the type of content they encounter?

Please see Question 20.1 and 20.3 in our [response](#) to the illegal harms consultation.