

Our response is not confidential

20th May 2024

Call for Evidence: Third phase of online safety regulation

Thank you for the opportunity to contribute to the above call for evidence. In this response we have provided:

Section 1: Introduction to the Trust Alliance Group (Including the Communications Ombudsman and the Internet Commission)

Section 2: Answers to questions in the Call for Evidence

Section 1: Introduction to the Trust Alliance Group (Including the Communications Ombudsman and the Internet Commission)

Trust Alliance Group (formerly Ombudsman Services) is a not-for-profit private limited company established in 2002 which runs a range of discrete national Alternative Dispute Resolution (ADR) schemes across different sectors, including the Communications Ombudsman, approved by Ofcom, and the Ofgem-approved Energy Ombudsman.

Our purpose is to build, maintain and restore trust and confidence between consumers and businesses and we're developing diverse capabilities and expertise in a range of areas including digital alternative dispute resolution and case management technology.

The Communications Ombudsman impartially and independently handles disputes between consumers and providers, whilst helping providers understand their customers and improve their experience.

With over 1,450 telecommunications companies signed up to our scheme - and over 15 years' experience in the communications sector - we are one of the alternative dispute resolution (ADR) schemes approved by Ofcom to impartially and independently handle disputes between consumers and providers.

In 2023 we accepted 25,000 disputes about providers in the communications sector and, using our insight, we continue to help providers improve their customer service.

The Internet Commission's mission is to contribute to a safer and fairer internet for citizens across the world. Adopting a systemic view of the issues, and with the support of an international network of partners, the Internet Commission aims to address the root-causes of the negative impacts of digitalisation, while helping to advance trust between digital service providers and their users.

In light of the emerging legislation and its implementation across the globe, the Internet Commission supports businesses that aim to go beyond regulatory compliance and promote best practices, driving a race to the top. Through setting standards, we are enabling companies to demonstrate their commitment to finding ways to protect their customers.

Section 2 – Answers to questions in the Call for Evidence

Q6. 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.

Fundamentals

To achieve the above, providers of online services should have a clearly defined and structured code of conduct for complaints which is:

- Accessible
- Not behind a pay wall
- Available to third parties, for example an offline process for parents or other concerned non-users
- Two clicks away from the code

Ofcom's current [complaints code of practice](#) is a strong starting point, and we welcome the work Ofcom have undertaken to carefully design this.

Transparency

In one of the reporting cycles for the [Internet Commission's Accountability Reports](#), we assessed two dating platforms which had introduced new mechanisms to enhance the transparency of their complaints and reporting systems.

One of the dating platforms had, at the time of our assessment, recently implemented a new 'Strike' system. This meant that they would issue a 'Strike' to anyone who had committed a relatively minor offence – with the opportunity for feedback built-in. For instance, restrictions about the kinds of information that a user could publish about themselves already existed in the platform's Terms and Conditions. However, in acknowledging that users may not always realise or remember the specific section, the platform would offer an explanation to ensure the user understood where they had gone wrong, when a strike was issued.

In offering users' opportunities to become better informed about infraction rules, this service offered a more equitable pathway to improving the safety of users and improved transparency to help users align their behaviour with the service's expectations, before more severe enforcement action was required. The company delivered a significant degree of improvement through this strategy, seeing low (<7%) rates of recidivism and delivering a reduction in bans (around 30% overall and up to 80% in certain categories of breaches). This platform committed to the timely handling of reports and communicating with users while the interaction was still 'fresh' in the mind – immediately following up with educational information, a clear explanation of relevant codes and policies, and notification of sanction. This link between operational efficiency and timely information had a positive impact on 'reducing re-offending'.

In this way, transparency is an effective tool for building a sense of mutual accountability and empowering users to adhere to the Terms and Conditions on which a service is provided to them. This idea was at the core of another measure implemented by the same dating platform, which saw them update the language used in reporting flows. The articulation of possible violations into user-friendly language – which helped translate policy language into 'real-life' harms – strengthened the role users could play in improving the quality of the service by better capturing their negative experiences on and off-platform.

A gaming platform we assessed used similarly effective notices to educate users. They found a routine notice would avoid arbitrary surprises and – by being transparent and offering a clear rationale – help both the reported and reporting party accept the outcome, while remaining emotionally invested in the relevant user interactivity and the platform. In this platform’s case, a notice was always sent to both users – unless the issue related to illegal content – and included the relevant rule broken. This platform chose not to reference the individual item of content removed or the means of detection.

Less transparency

The same gaming platform also created a tool whereby the length of suspension applied to a user would be calculated automatically – with the moderator only required to classify the content and the tool needed to decide the sanction. The use of an automated tool to determine appropriate sanctions allows for the exclusion of bias (either favourable or unfavourable) on the part of the moderator. The value of relying on a tool such as this is expedience, the exclusion of human bias and, perhaps most importantly, consistency. At the same time, it is important that users understand the process behind the calculation of the sanctions they receive for reasons of transparency and accountability. The ability to explain systems and decision-making processes is vital for accountability and to empower users to challenge decisions.

The dating platform referenced above – recognising their relatively unique role in facilitating offline meetups between users – adopted a zero-tolerance approach to any reports concerning offline behaviour. This saw them err on the side of caution, opting to uphold the complaints of the reporting party and using stricter enforcement actions (banning) than may otherwise have been used for on-platform behaviour (e.g. ‘Strikes’ and educational guidance).

Given the enhanced risk of offline retributive action against the reporting party, the platform in question did not inform users that a report has been made against them. While, in many cases and contexts, it is important that a user is aware of a report against them or a piece of their content, there are certain situations in which this could be detrimental to the experiences and safety of a platform’s userbase. This represents an example of a platform opting to be less transparent in their reporting system, following a considered balancing of risk to users against the desire for user empowerment and education.

Alternative Dispute Resolution (ADR)

TAG’s experience as the Communications Ombudsman and Energy Ombudsman shows that companies with robust and effective complaint handling processes generate a smaller volume of complaints ending in Alternative Dispute Resolution (ADR). We continue to believe that the lack of ADR provision in the digital marketplace leaves a gap in transparency and leaves consumers in a situation where they are unable to challenge decisions they feel are unfair or inaccurate.

If, in the future, it is deemed there is a need for Digital ADR under the Online Safety Act, we would be happy to work closely with Ofcom to help design a fair, efficient and effective scheme. Our experience of delivering ADR services in the energy and communications markets – coupled with our ongoing engagement with EU stakeholders developing Out of Court Dispute Settlement (ODS) under the Digital Services Act – would help us cooperate to deliver a system which offers:

- Independent redress for users to challenge disputes
- A complete overview of issues emerging in digital markets
- The opportunity to spot issues of concern with individual platforms
- Clear and transparent categorisation of complaint types
- The capture and measurement of consumer experiences and detriment

- The ability to share information with platforms and regulators to drive improvements

While regulation, guidance and oversight can set the standards by which the market should operate, first-hand evidence of actual user experience will not be captured and consumers will remain unable to challenge final decisions made by providers, even if they are incorrect. For context, the Energy Ombudsman upholds consumer complaints approximately 70% of the time – showing that, even in a highly regulated market, erroneous decisions are made.

We continue to develop our thinking and evidence base, regarding the future provision of Digital ADR, and look forward to sharing our views with Ofcom, both in our consultation responses and in any future engagement with you.

Q20: What initiatives could service providers use to create and increase awareness about the process for users to complain and/or appeal content decisions and to minimise its' misuse?

Awareness, accessibility and availability

TAG's experience of delivering ADR in the communications and energy sectors gives us useful insight into effective complaint handling and the challenges consumers face when trying to access processes put in place by platforms and suppliers. The principles of high quality complaint management in these markets are equally applicable to the digital marketplace.

Fundamentally, appeals and complaints processes should be effectively signposted by a service provider before, during and after a complaint has been received. Users should easily be able to identify where complaints policies exist on a platform and the right to complain (and how to do so) should be included in any communication with service users. These processes should have their own clear and prominent identity and not be subsumed into lengthy terms and conditions or policy documents.

Complaints processes should be written in clear and digestible language and users should be provided with an understanding of what types of complaints will be considered, how they will be handled and what potential outcomes could be.

While many complaints are simple and can be managed either automatically or with minimal human oversight, platforms should have robust processes in place to ensure complaints can be escalated for closer investigation. This option should also be highlighted to platform users.

In an online world, the ability to make a complaint about content decisions should be available on a 24/7 basis – even if only to allow the process to begin. Access to complaints processes should also be fully accessible, taking account of a users' language needs or their preferred communication methods. It should also be possible for an advocate or third party to help a user with their complaint or to make the complaint on their behalf.

Minimising misuse

There is a balance to be struck in terms of reducing the time moderators spend on malicious reporting and ensuring reports about genuine breaches are properly examined.

Users sometimes report others because they don't like them, they don't agree with their views or to simply see them banned. This malicious reporting became a problem on a dating platform which participated in the [Internet Commission's Accountability Reporting](#); with the platform ultimately changing its reporting flow in an effort to reduce this. The revised flow asked specific questions to identify malicious reporting and offered alternative options like blocking and changing privacy settings – with some success.

By suggesting alternative options *and* requesting user feedback on the new process, users were still empowered to take action against another user without feeling the platform was dissuading them from doing so.

Please do not hesitate to contact us if you would like further information regarding our response. **Our response is not confidential.**

For more information regarding this response, please contact:

