

Your response

Questions for industry	Your response
<p>Question 1: Are you providing a UK-established service that is likely to meet the AVMSD definition of a VSP?</p> <p>Please provide details of the service where relevant. The establishment criteria under the AVMSD are set out in annex 5.</p>	<p>Yes.</p> <p>BitChute is an online platform (website) where creators can register and then post audio and video content they have created. This content is then viewable and downloadable by other users of the platform.</p>
<p>Question 2: Is your service able to identify users based in specific countries and do you provide customised User Interfaces (UI), User Experience (UX) functionality or interaction based on perceived age and location of users?</p>	<p>Yes.</p> <p>The country where the user is viewing from is determined and then used to tailor the content that is visible to that user, excluding content that has been identified as being potentially illegal within that country.</p> <p>The platform is aimed at adult audiences, i.e. those aged 16 and over, and this is detailed in our policies. In addition to this each piece of content uploaded is given a sensitivity rating by the creator. Available sensitivity ratings are normal, NSFW (aligned with BBFC 15 rating) and NSFL (aligned with BBFC 18 rating).</p>
<p>Question 3: How does your service develop and enforce policies for what is and is not acceptable on your service? (including through Ts&Cs, community standards, and acceptable use policies)</p> <p>In particular, please provide information explaining:</p> <ul style="list-style-type: none"> what these policies are and whether they cover the categories of harm listed in the AVMSD (protection of minors, incitement to hatred and violence, and content constituting a criminal offence – specifically Child Sexual Exploitation and Abuse, terrorist material, racism and xenophobia); 	<p>Our policies were defined with three key elements in mind, providing a politically neutral platform, maintaining human rights and compliance with law. The policies themselves have evolved over the years, but these three elements are still considered in every policy change we make.</p> <p>Enforcing the policies is a much harder thing to do and unfortunately requires significant resources. This has been a struggle for us amid anti-competitive practices by market leaders and politicised attacks on our suppliers by activists.</p> <p>Our Community Guidelines cover the list of content that is prohibited on our platform, and the current list can be found here:</p> <p>https://support.bitcute.com/policy/guidelines/#prohibited-content</p> <p>Content that violates our prohibited content guidelines is blocked on platform when identified. As the laws of various countries are diverse, we also have a method to impose a geographic block on content that is potentially illegal within a specific country or group of countries.</p>

<ul style="list-style-type: none"> • how your service assesses the risk of harm to its users; • how users of the service are made aware of Ts&Cs and acceptable use policies; and • how you test user awareness and engagement with Ts&Cs. 	<p>We require that all registered users provide consent and agreement to our policies as part of the account creation process. Users are not permitted to post content without an account.</p> <p>Where a user has violated our policies, we will impose a variety of penalties based on the nature of the violation, ranging from a warning to account deletion.</p>
<p>Question 4: How are your Ts&Cs (or community standards/ acceptable use policies) implemented? In particular, please provide information explaining:</p> <ul style="list-style-type: none"> • what systems are in place to identify harmful content or content that may breach your standards and whether these operate on a proactive (e.g. active monitoring of content) or reactive (e.g. in response to reports or flags) basis; • the role of human and automated processes and content moderation systems; and • how you assess the effectiveness and impact of these mechanisms/ processes. 	<p>Our policies are published on our support site and can be found here:</p> <p>https://support.bitchute.com/policy/</p> <p>We provide flagging / reporting functionality for the content on the platform. Currently this can be done by completing a form on the content or sending an email to report@bitchute.com. We also have plans underway to introduce an API interface for automated reporting.</p> <p>Content moderation is currently being carried out by our human moderation team. We are in the process of making changes to the moderation system such that we will be focused on moderating the creators, and creators will be responsible for moderating their audience feedback. We have insufficient funds to develop our own automated moderation systems.</p> <p>We do not gather sufficient metrics to determine the effectiveness of our moderation processes, so we are reliant on feedback from consumers. We have plans to address this, however funding is the limiting factor in scaling up our moderation capabilities.</p>
<p>Question 5: Does your service have advertising rules?</p> <p>In particular, please provide information about any advertising rules your platform has, whether they cover the areas in the AVMS Directive, and how these are enforced. See Annex 5 for a copy of the AVMSD provisions.</p>	<p>We apply the 4As APB Brand Safety Floor Framework as a guideline for the adverts that we select for the platform:</p> <p>https://www.aaaa.org/index.php?checkfileaccess=/wp-content/uploads/2018/09/APB-Brand-Safety-Floor-Framework.pdf</p> <p>For creator sourced advertising we are currently have a less strict set of rules, and only expect their advertising to be compliant with our wider platform policies.</p>
<p>Question 6: How far is advertising that appears on your service under your direct control, i.e.</p>	<p>Adverts on the platform are divided into three categories:</p> <p>Platform – These are directly controlled by us.</p>

<p>marketed, sold or arranged by the platform?</p> <p>Please provide details of how advertising is marketed, sold and arranged to illustrate your answer.</p>	<p>Partner – The partner controls the adverts. Our current partners are either 4A members or follow their guidelines.</p> <p>Creator – These are controlled by the creators and will appear in their video content, descriptions and creator provided adverts on the platform.</p>
<p>Question 7: What mechanisms do you have in place to establish whether videos uploaded by users contain advertising, and how are these mechanisms designed, enforced, and assessed for effectiveness?</p>	<p>None.</p> <p>This would require some sort of hashing algorithm and a database of banned advertising content at the very least. This is something we cannot afford to develop, and we are unaware of an available service that would deliver this at a cost-effective price.</p> <p>Even then it would be unable to detect ad hoc advertising done by creators on the fly.</p>
<p>Question 8: Does your service have any reporting or flagging mechanisms in place (human or automated)?</p> <p>In particular, please provide information explaining:</p> <ul style="list-style-type: none"> • what the mechanisms entail and how they are designed; • how users are made aware of reporting and flagging mechanisms; • how you test user awareness and engagement with these mechanisms; • how these mechanisms lead to further action, and what are the set of actions taken based on the reported harm; • how services check that any action taken is proportionate and takes into account Article 10 of the European Convention of Human Rights (freedom of expression); • how users (and content creators) are informed as to whether any action has been taken as a result of 	<p>We do not have a corporate, venture capital or angel investor. As such the platform is funded through the supporter donations, membership sales and advertising. This unfortunately limits our ability to develop the costly automated content moderation systems that our more established competitors rely on.</p> <p>The result of this is that we depend heavily on users and external organisations identifying and reporting the content that violates our guidelines. The reports are then passed to our moderation team for review and action.</p> <p>We are in the process of engaging with organisations like the IWF and GIFCT to gain access to more automated processes (hashing algorithms) to help us in this area, however getting membership of them is proving a costly and time-consuming process.</p> <p>Our guidelines have already been developed taking fundamental human rights like freedom of expression into account.</p> <p>We are developing a new system to improve efficiency and effectiveness of our moderation processes. This will also include the necessary metrics gathering required to improve transparency and track key performance indicators of our moderation process.</p> <p>Users can appeal moderation decisions if they feel they are incorrect, or the action taken was excessive.</p>

<p>material they or others have reported or flagged;</p> <ul style="list-style-type: none"> • whether there is any mechanism for users (including uploaders) to dispute the outcome of any decision regarding content that has been reported or flagged; and • any relevant statistics in relation to internal or external KPIs or targets for response. 	
<p>Question 9: Does your service allow users to rate different types of content on your platform?</p> <p>Please provide details of any rating system and what happens as a result of viewer ratings.</p>	<p>Users can upvote or downvote content on the platform and provide feedback via public comments.</p> <p>User engagement on the platform (views, votes, subscriptions, etc) are factored into the popularity algorithms. More popular channels are given more prominence on the platform.</p>
<p>Question 10: Does your service use any age assurance or age verification tools or related technologies to verify the age of users?</p> <p>In particular, please provide information explaining:</p> <ul style="list-style-type: none"> • how your age assurance policies have been developed and what age group(s) they are intended to protect; • how these are implemented and enforced; • how these are assessed for effectiveness or impact; and • if the service is tailored to meet age-appropriate needs (for example, by restricting specific content to specific users), how this works. 	<p>We do not use any age assurance or verification tools and technology.</p> <p>We feel that device level parental controls are a more suitable approach to controlling access for minors. This approach also prevents the need for us to request and hold private information on minors. Thus, improving data protection for minors and maintaining compliance with existing data protection laws like GDPR.</p>
<p>Question 11: Does your service have any parental control mechanisms in place?</p>	<p>We do not have parental control mechanisms.</p>

In particular, please provide information explaining:

- how these tools have been developed;
- what restrictions they allow;
- how widely they are used; and
- how users of the service, and parents/ guardians if not users themselves, are made aware of and encouraged to use the parental control mechanisms that are available.

We feel that device level parental controls are a more suitable approach to controlling access for minors. This approach also prevents the need for us to request and hold private information on minors. Thus, improving data protection for minors and maintaining compliance with existing data protection laws like GDPR.

Question 12: Does your service have a complaints mechanism in place? Please describe this, including how users of your service can access it and what types of complaint they can make.

In particular, please provide information explaining:

- any time limits for dealing with complaints;
- how complainants are informed about the outcomes of complaints;
- any appeals processes, how they work, and whether they are independent from the complaints processes; and
- the proportion of complaints which get disputed or appealed.

This is covered by the moderation system. Complaint categories are included and can be selected when raising a moderation request.

Users can appeal moderation decisions via the moderation system.

For more specific complaints and requests directed at the platform itself, we provide contact details on our support site.

Question 13: What media literacy tools and measures are available on your service?

In particular, please provide any relevant information about:

- how you raise awareness of media literacy tools and measures on your service;

None currently.

<ul style="list-style-type: none"> • how you assess the effectiveness of any media literacy tools and measures provided on your service; and • how media literacy considerations, such as your users' ability to understand and respond to the content available to them feature in your thinking about how you design and deliver your services, for example in the user interfaces, flagging content and use of nudges. 	
<p>Question 14: Do you publish transparency reports with information about user safety metrics?</p> <p>Please provide any specific evidence and examples of reports, information around the categorisation and measurements used for internal and external reporting purposes, and whether you have measures in place to report at country/ regional level and track performance over time.</p>	<p>Not currently. We are in the process of redeveloping our moderation system and providing the necessary metrics to allow for transparency reporting.</p> <p>Due to the costs involved in providing granular transparency reporting it is unlikely this will provide country or regional level reporting.</p>
<p>Question 15: What processes and procedures do you have in place to measure the impact and effectiveness of safety tools or protection measures?</p> <p>If not already captured elsewhere in your response, please provide information relevant to all of the measures listed above explaining:</p> <ul style="list-style-type: none"> • how you test and review user awareness and engagement with each measure (including any analysis or research that you would be willing to share with Ofcom); • how often policies and protection measures are 	<p>None currently. Given the expense of implementing such, it is unlikely we will provide this soon.</p>

<p>reviewed, and what triggers a review; and</p> <ul style="list-style-type: none"> • how you test the impact of policies on users and the business more generally, such as how you balance the costs and benefits of new tools. 	
<p>Question 16: How do you assess and mitigate the risk of inadvertent removal of legal or non-harmful content?</p> <p>In particular, please provide any information on:</p> <ul style="list-style-type: none"> • how freedom of expression is taken into account during this assessment; • how appeals are handled and what proportion are successful; and • audits of automated removal systems and, if you have them, any metrics that relate to their effectiveness. 	<p>We train our moderators to identify content that is restricted or prohibited on the platform.</p> <p>We provide an appeal process for moderation decisions. This is intended to allow us to rectify incidents where we have incorrectly applied moderation.</p> <p>To facilitate effective moderation and maintain freedom of expression, it is important that we have clear, concise and robust definitions of the terms we are required to enforce. I.e. incitement to hatred, incitement to violence, terrorism and violent extremism. These need to be provided as part of the legislation.</p>
<p>Question 17: Have you previously implemented any measures which have fallen short of expectations and what was your response to this?</p> <p>Please provide evidence to support your answer wherever possible.</p>	
<p>Question 18: How does your service develop expertise and train staff around different types of harm? (e.g. do you have any partnerships in place?)</p>	<p>Our moderation team is currently small, as such we cannot justify the expenditure of hiring external training consultants to train them in this area. Therefore, much of the training is carried out on the job. As we scale up the moderation team, we are going to be developing slide decks around the relevant areas to give new joiners a base understanding of the issues and the appropriate responses.</p> <p>In the area of terrorism and violent extremism, we work with an external UN CTED supported organisation called Tech Against Terrorism to help improve our handling of such material.</p>

We have also made an application to the Internet Watch Foundation (IWF) for membership so that we can improve our handling of the content that are concerned with.

Questions for all stakeholders	Your response
<p>Question 19: What examples are there of effective use and implementation of any of the measures listed in article 28(b)(3) the AVMSD 2018?</p> <p>The measures are terms and conditions, flagging and reporting mechanisms, age verification systems, rating systems, parental control systems, easy-to-access complaints functions, and the provision of media literacy measures and tools. Please provide evidence and specific examples to support your answer.</p>	<p>See responses above.</p> <p>There are some gaps between what we are currently mandating in our policies and the requirements of the AVMSD. We will seek to address these. However, this may take significant time and expense, and we expect Ofcom to be understanding of this and make appropriate allowances.</p>
<p>Question 20: What examples are there of measures which have fallen short of expectations regarding users' protection and why?</p> <p>Please provide evidence to support your answer wherever possible.</p>	
<p>Question 21: What indicators of potential harm should Ofcom be aware of as part of its ongoing monitoring and compliance activities on VSP services? Please provide evidence to support your answer wherever possible.</p>	
<p>Question 22: The AVMSD 2018 requires VSPs to take appropriate measures to protect minors from</p>	<p>We think the responsibility for the physical, mental and moral development of a minor is the responsibility of the parent or legal guardian.</p>

content which 'may impair their physical, mental or moral development'. Which types of content do you consider relevant under this? Which measures do you consider most appropriate to protect minors?

Please provide evidence to support your answer wherever possible, including any age-related considerations.

The internet contains millions of websites that are unsuitable for minors, you could reasonably go as far as saying most websites are not safe for minors. The existing approach for minor access to the internet where sites are considered safe unless marked otherwise is questionable at best. A more appropriate approach would be to assume websites are unsafe unless specifically assessed as safe for minors. Such assessments should be conducted through online services that parents could subscribe to.

As such, we feel that device level parental controls are a more suitable approach to controlling access for minors. This approach also prevents the need for us to request and hold private information on minors. Thus, improving data protection for minors and maintaining compliance with existing data protection laws like GDPR.

That said, we do have a strict prohibited content list for the platform. The most harmful content is covered by this list and therefore not permitted on the platform. However, there are times where this content could be posted to the platform and visible to users for a period prior to it being identified and removed. This is one of the reasons why we recommend under 16s do not use the platform.

When it comes to having suitable VSPs for minors, we think the most effective approach would be a ring-fenced platform specifically for minors. On such a platform all content would be reviewed for suitability and granular age ratings applied prior to being made public. Content embedding and off-platform linking might not be suitable features for such a platform. Although this might be more aligned with the definition of a broadcaster than that of a VSP.

Question 23: What challenges might VSP providers face in the practical and proportionate adoption of measures that Ofcom should be aware of?

We would be particularly interested in your reasoning of the factors relevant to the assessment of practicality and proportionality.

The largest challenge will be the financial impact of compliance with the new AVMSD measures on the smaller and new entrant VSPs.

The VSP marketplace is dominated by Californian tech companies who have already established a pseudo-monopoly in this space. The financial benefits of this will give them a significant advantage in their adoption of the measures under AVMSD.

It the key that such an advantage is not utilised to further cement their positions.

To reduce the risk of this, it is important that the lessons learnt from the introduction of the new measures under AVMSD are freely shared with other VSPs to form a

	<p>recognised best practice approach. Ofcom will need to facilitate this.</p> <p>Not only will this help smaller and new entrant VSPs more effectively meet the requirements, it will also provide a more consistent user experience when moving between providers.</p>
<p>Question 24: How should VSPs balance their users' rights to freedom of expression, and what metrics should they use to monitor this? What role do you see for a regulator?</p>	<p>Services should be able to set the level of freedom of expression they permit up to and including the full extent allowable under the law. The limits in place should be communicated clearly and applied fairly.</p> <p>The key to a fair system is transparency and where restrictions have been applied a user should be informed not only that there was a rules violation but also reasonably specific information about the violation. Anonymised statistics of these violations should be published for public scrutiny.</p> <p>Users should have access to an internal appeal process as the first instance of appeal. Account restrictions should come with durations proportionate to the alleged rules violation and after such a time a person should be welcome to resume using their account or re-join the service.</p> <p>Special allowances should be afforded to comedy, political speech, religious speech, science, and historical contexts. E.g. a comedy sketch may mistakenly appear to incite hatred if it is only considered literally. MP's in the English parliament have had absolute freedom of speech since 1689 and for accountability it should be possible to both show and further discuss their political debates even if this could include incitement to hatred or violence, for example in the case of the Government advocating for war. Progress and human understanding require that it must always be possible to challenge any scientific consensus, historical events or religious texts and ideas must never require rewriting to be communicated freely.</p> <p>A regulator may have the role of ensuring the minimum standards are in place, checking that a service is operating fairly and making sure regulatory actions do not result in driving opinions underground into unregulated spaces where they can potentially do more harm.</p>
<p>Question 25: How should VSPs provide for an out of court redress mechanism for the impartial settlement of disputes between users and VSP providers? (see</p>	<p>We agree that it is necessary to have a cost-effective method of external redress for such occurrences. This is certainly something that the industry is lacking now and often results in a negative user experience for creators that have fallen victim to potentially unjust decisions by VSP providers.</p>

paragraph 2.32 and article 28(b)(7) in annex 5).

Please provide evidence or analysis to support your answer wherever possible, including consideration on how this requirement could be met in an effective and proportionate way.

In the US attempts have been made at establishing independent arbitration systems to address this issue. Unfortunately, the costs of these make them an unsuitable option. For example, Patreon is currently facing a multi-million-dollar expense for upfront fees to defend itself against many cases through the Californian arbitration service.

One alternative would be an independent industry ombudsman service with a jury that is staffed by the VSPs themselves.

When a new case is raised the consumer complainant and VSP defendant would submit their evidence for review by the jury.

The jury itself would consist of an odd number of jurors provided by other VSPs, with a maximum of one juror per VSP.

To avoid frivolous cases the consumer complainant should be required to pay a suitable fee. The financial situation of each party should not be a factor in either party getting access to or a fair result from such services.

Question 26: How might Ofcom best support VSPs to continue to innovate to keep users safe?

Disruptive innovation in monopolised industries such as this one is typically made by new entrants. Regulators should make sure that conditions for vigorous competition exist and that any regulatory costs or requirements are proportionate and inviting to smaller companies.

Question 27: How can Ofcom best support businesses to comply with the new requirements?

While larger organisations have the capacity to throw money at addressing the new regulations this is not an option for smaller organisations. There needs to be some consideration of this in the time scales for achieving compliance upon the introduction of the new regulatory scheme.


Guidance on what is sufficient to meet the requirements would be of help in prioritising the efforts in achieving compliance.

Question 28: Do you have any views on the set of principles set out in paragraph 2.49 (protection and assurance, freedom of expression, adaptability over time, transparency, robust enforcement, independence and proportionality), and balancing the tensions that may sometimes occur between them?

Overall, the principles seem broad and reasonable; however, we have a few concerns:

VSP regulation needs to ensure that UK based VSPs are not unfairly disadvantaged against foreign based VSPs. We are not sure how this is covered or protected against in the principles.

We are glad to see that you acknowledge the risk of bias. We are conscious that regulation with the threat of



penalties is likely to be leveraged by political activists to shut down freedom of expression.

Likewise, we are pleased to see that you acknowledge that regulation can form a barrier to entry. We think it would also be relevant to include some statements around how monopolisation of the sector will be handled. This is of relevance as the sector is currently dominated by a single company.

Please complete this form in full and return to VSPRegulation@ofcom.org.uk.