Your response

Questions for industry	Your response
Question 1: Are you providing a UK-established service that is likely to meet the AVMSD definition of a VSP? **Please provide details of the service where relevant. The establishment criteria under the AVMSD are set out in annex 5.**	
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?	
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) **In particular, please provide information explaining:** • **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);** • **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.**	
Question 4: How are your Ts&Cs (or community standards/ acceptable use policies) implemented? **In particular, please provide information explaining:**	

• 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.	
Question 5: Does your service have advertising rules? **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.**	
Question 6: How far is advertising that appears on your service under your direct control, i.e. marketed, sold or arranged by the platform? **Please provide details of how advertising is marketed, sold and arranged to illustrate your answer.**	
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?	
Question 8: Does your service have any reporting or flagging mechanisms in place (human or automated)? **In particular, please provide information explaining:** • **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 material they or others have reported or flagged; • 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.	
Question 9: Does your service allow users to rate different types of content on your platform? **Please provide details of any rating system and what happens as a result of viewer ratings.**	
Question 10: Does your service use any age assurance or age verification tools or related technologies to verify the age of users? **In particular, please provide information explaining:** • 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.	

Question 11: Does your service have any parental control mechanisms in place?

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.**

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.**

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;**
- **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.	
Question 14: Do you publish transparency reports with information about user safety metrics? **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.**	
Question 15: What processes and procedures do you have in place to measure the impact and effectiveness of safety tools or protection measures? **If not already captured elsewhere in your response, please provide information relevant to all of the measures listed above explaining:** • **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 reviewed, and what triggers a review; and** • **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.**	
Question 16: How do you assess and mitigate the risk of inadvertent removal of legal or non-harmful content? **In particular, please provide any information on:** • **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.**	

Question 17: Have you previously implemented any measures which have fallen short of expectations and what was your response to this? Please provide evidence to support your answer wherever possible.	
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?)	

Questions for all stakeholders	Your response
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? 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.	
Question 20: What examples are there of measures which have fallen short of expectations regarding users' protection and why? Please provide evidence to support your answer wherever possible.	The self-regulatory system for alcohol marketing has been criticised for its ineffectiveness. Public Health England noted that multiple systematic reviews have found self-regulatory systems fail to meet "their intended goal of protecting vulnerable populations"(1) and that alcohol industry tactics to influence policy, including the use of self-regulatory codes "are similar to the strategies used by the tobacco industry"(2). While the UK self-regulatory system states that alcohol ads must not be directed at people under 18, internal communications from alcohol producers and their advertising agencies show that young people have been targeted with such advertising, with market research data from 15-16 year olds used in the development of campaigns. Further, brands were found to explicitly describe campaigns and audiences in youthful terms, with Lambrini suggesting their TV advertisement aimed to be "a cross between myspace and

High School the Musical" while Carling hoped to "become the most respected youth brand..."(3)

Currently, the format of decision making in this self-regulatory system means rulings can take substantial amounts of time, despite the speed of dissemination of campaigns via social media. A decision from the ASA on a Captain Morgan branded Snapchat filter that was judged to appeal to under 18s, was made in January 2018, more than half a year after the filter's release. In an article on the ruling, Baroness Hayter of Kentish Town noted: "The ASA themselves note that 13-17-year olds represented "one of the largest groups" of Snapchat's 11 million audience, yet their decision took six months to emerge, during which time children continued to see the ad… brands continue to push the boundaries of what is appropriate, knowing their ads will probably run uninterrupted, at a price of what is essentially a verbal warning."(4)
Social media marketing complicates regulation further, due to user-generated content. A marketing initiative such as the Captain Morgan filter is not only promoted by the brand themselves, but by users who share it with friends. The nature and reach of social media might mean that this secondary sharing of user-generated content is more potent than the original campaign from the brand. There is little scope within the current self-regulatory system to address this.

International research suggests age verification systems fail to protect young people from exposure to alcohol advertising via video-sharing platforms. US research found that fictional YouTube user accounts created with ages below the legal drinking age in the US – 14, 17 and 19 – were able to subscribe to every alcohol brand YouTube page the study explored.(5)
This echoes research examining such age verification procedures in other online settings; an Australian study found typically "poor filter systems" ("in-built barriers to underage access to alcohol brand websites" such as pages requiring the user to enter a date of birth) on all alcohol brand websites investigated, failing to protect underage visitors.(6)

(1) Public Health England. 2016. The Public Health Burden of Alcohol and the Effectiveness and Cost-Effectiveness of Alcohol Control Policies: An evidence review. p. 110.
(2) Public Health England. 2016. op. cit. p. 109.
(3) Memorandum by Professor Gerard Hastings
(4) The House. 2018. "They'll drink Buckets of the Stuff" – An Analysis of Internal Alcohol Industry Advertising Documents.
(5) Barry, A.E., Johnson, E., Rabre, A., Darville, G., Donovan, K.M. and Efunbumi, O. 2014. Underage access to online alcohol marketing content: a YouTube case study. Alcohol and alcoholism, 50(1), pp.89-94.

	(6) Jones, S.C., Thom, J.A., Davoren, S. and Barrie, L. 2014. Internet filters and entry pages do not protect children from online alcohol marketing. Journal of public health policy, 35(1), p.75.
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.**	
Question 22: The AVMSD 2018 requires VSPs to take appropriate measures to protect minors from 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.**	Video-sharing platforms represent substantial, growing marketing channels for the alcohol industry. Children exposed to alcohol marketing materials drink earlier and more than they otherwise would.(1,2) A systematic review of research examining the impact of alcohol marketing on young people concluded that the more exposure young people have, the more likely they are to start drinking, binge drink, and drink at hazardous levels.(3) Effects of this kind have been found across marketing channels including online video as well as movies, television, sponsorship of sporting and music events, magazine advertisements, music, video games and others.(4,5,6,7,8,9,10) A study has highlighted the "substantial potential" for young people to be exposed to alcohol advertising through online streaming services.(11) Children using video-sharing platforms risk being influenced by both branded alcohol marketing and user-generated content. Neknominate, which spread across social networks in 2014, involved a user uploading a video to social media of themselves drinking a large amount in a short space of time and challenging a friend to respond with a similar stunt. This trend raised concerns amongst health advocates, with Suzanne Costello of Alcohol Action Ireland suggesting: "the online nature of the challenges mean the peer pressure aspect of it has far greater reach than traditional drinking games would have had."(12) Indeed, research has demonstrated such user-generated alcohol related video content can affect young people's alcohol consumption in similar ways to branded content. US research has found that exposure to alcohol-related media, including viewing videos on the internet via social media platforms may escalate young people's alcohol use over time; the more alcohol-related media they see, the more they drink, and the more they drink, the more they seek out alcohol-related media.(13)

Alcohol advertising is highly gendered. Scottish Health Action on Alcohol Problems and the Institute of Alcohol Studies have highlighted that the aim of marketing targeted at women "is to establish a link between alcohol and empowerment...Marketing targeted at men often depicts women as sexual objects..."(14) Gendered advertising has the potential to embed harmful, regressive gender norms amongst young people.

(1) World Health Organisation Europe. 2009. Evidence for the effectiveness and cost-effectiveness of interventions to reduce alcohol-related harm.
(2) Scientific Opinion of the Science Group of the European Alcohol and Health Forum. 2009. ibid.
(3) Jernigan, D. et al. 2017. ibid.
(4) Tanski, S.E., McClure, A.C., Li, Z., Jackson, K., Morgenstern, M., Li, Z. and Sargent, J.D. 2015. Cued recall of alcohol advertising on television and underage drinking behavior. JAMA pediatrics, 169(3), pp.264-271.
(5) Morgenstern, M., Sargent, J.D., Sweeting, H., Faggiano, F., Mathis, F. and Hanewinkel, R. 2014. Favourite alcohol advertisements and binge drinking among adolescents: a cross-cultural cohort study. Addiction, 109(12), pp.2005-2015.
(6) Hanewinkel, R., Sargent, J.D., Poelen, E.A., Scholte, R., Florek, E., Sweeting, H., Hunt, K., Karlsdottir, S., Jonsson, S.H., Mathis, F. and Faggiano, F. 2012. Alcohol consumption in movies and adolescent binge drinking in 6 European countries. Pediatrics, pp.peds-2011.
(7) Tucker, J.S., Miles, J.N. and D'Amico, E.J. 2013. Cross-lagged associations between substance use-related media exposure and alcohol use during middle school. Journal of Adolescent Health, 53(4), pp.460-464.
(8) de Bruijn, A., Tanghe, J., de Leeuw, R., Engels, R., Anderson, P., Beccaria, F., Bujalski, M., Celata, C., Gosselt, J., Schreckenberg, D. and Słodownik, L. 2016. European longitudinal study on the relationship between adolescents' alcohol marketing exposure and alcohol use. Addiction, 111(10), pp.1774-1783.
(9) Brown, K. 2016. Association between alcohol sports sponsorship and consumption: a systematic review. Alcohol and alcoholism, 51(6), pp.747-755.
(10) Smith, L.A. and Foxcroft, D.R., 2009. The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies. BMC public health, 9(1), p.51.
(11) Siegel, M., Kurland, R.P., Castrini, M., Morse, C., de Groot, A., Retamozo, C., Roberts, S.P., Ross, C.S. and Jernigan, D.H. 2016. Potential youth exposure to alcohol advertising on the internet: a study of internet versions of popular television programs. Journal of substance use, 21(4), pp.361-367.
(12) The Irish Mirror. 2014. Neck nominations: Internet drinking craze 'Neknominate' slammed by Alcohol Action Ireland.
(13) Tucker, J.S., Miles, J.N. and D'Amico, E.J. 2013. ibid.
(14) SHAAP and IAS. 2018. Women and Alcohol: Key Issues. p. 7

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.

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?	
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 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.**	
Question 26: How might Ofcom best support VSPs to continue to innovate to keep users safe?	Our recommendation is for a statutory prohibition on the presentation of alcohol advertising content to children. Such measures are already in place in France where the 'Loi Evin' regulation means that there are restrictions on the placement and content of alcohol advertising. Advertising is not only prohibited from targeting young people, but is prohibited from containing 'lifestyle' messaging, meaning the highly regressive, gendered imagery and content that can be presented to children via alcohol advertising in the UK is illegal.(1) Including placement restrictions in such a law would also allow for limits or the removal of alcohol advertising from video-sharing platforms with youthful audiences. It is also essential that regulation is upheld free from industry influence. This need for independence is echoed by "the World Health Organisation's view that the alcohol industry should have no role in policy making."(2) Indeed, Alcohol Concern / Alcohol Research UK have noted that an independent regulator acting under statutory regulation would be obliged "to answer fully to the public and Parliament" and avoid "any perception that its decisions are conflicted by links to the alcohol industry or other interests."(3) Calls for 'Loi Evin' style regulation are echoed internationally by the World Health Organisation,(4) as well as in the UK by the Alcohol Health Alliance,(5) a coalition of organisations including medical royal colleges, charities, patient representatives and alcohol health campaigners, who wish to reduce the damage caused to health by alcohol. (1) Institute of Alcohol Studies. 2017. Policies to regulate alcohol marketing. (2) Alcohol Health Alliance. 2018. AHA letter to the Portman Group. (3) Alcohol Concern / Alcohol Research UK. 2018. op. cit. p. 3.

	(4) World Health Organisation. 2017. Tackling NCDs. (5) University of Stirling, Alcohol Health Alliance, and British Liver Trust. 2013. Health First: An evidence-based alcohol strategy for the UK.
Question 27: How can Ofcom best support businesses to comply with the new requirements?	
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?	