

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>	No Response
<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>	No Response
<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);• 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.	No Response
<p>Question 4: How are your Ts&Cs (or community standards/ acceptable use policies) implemented?</p> <p>In particular, please provide information explaining:</p>	No Response

<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>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>	No Response
<p>Question 6: How far is advertising that appears on your service under your direct control, i.e. 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>	No Response
<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>	No Response
<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; 	No Response

<ul style="list-style-type: none"> • 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. 	
<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>	No Response
<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. 	No Response

<p>Question 11: Does your service have any parental control mechanisms in place?</p> <p>In particular, please provide information explaining:</p> <ul style="list-style-type: none">• 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.	<p>No Response</p>
<p>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.</p> <p>In particular, please provide information explaining:</p> <ul style="list-style-type: none">• 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.	<p>No Response</p>
<p>Question 13: What media literacy tools and measures are available on your service?</p> <p>In particular, please provide any relevant information about:</p> <ul style="list-style-type: none">• 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	<p>No Response</p>

<p>in the user interfaces, flagging content and use of nudges.</p>	
<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>No Response</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 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. 	<p>No Response</p>
<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>No Response</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>No Response</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>No Response</p>

<p>Questions for all stakeholders</p>	<p>Your response</p>
<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>Currently, social networks are not required to follow consistent requirements to keep their users safe. Harms do not need to be illegal to have a particularly acute impact on young and vulnerable people, consequently this environment where they are exposed to the greatest risk must not continue to operate with the least regulation. Understandably many aspects need thinking to be verified and developed through an iterative process. The Molly Rose Foundation is pleased to be able to contribute to start of this process.</p> <p>The Molly Rose Foundation is a Charitable Incorporated Organisation formed in memory of Molly Russell who took her own life aged 14 with the aim of suicide prevention, targeted towards young people under the age of 25. We want to help spot those suffering from mental illness and connect them to the help, support and practical advice they need. We take care not to duplicate services provided by existing agencies that directly provide mental health advice to young people suffering from mental illness. We assist in the recognition of young persons under the age of 25 in a crisis that may lead to their suicide.</p> <p>This is best known to the technology service providers. The public data shared by VSPs such</p>

	<p>as Facebook demonstrates the scale of the issue. How much harmful material is reported, currently removed through “manual” intervention and how much remains accessible is shocking.</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>Service providers must identify and respond to systemic risks in fulfilling their duty of care to their users and the public. The current inability in September 2020 for platforms to control egregious content and how their algorithms and machine learning push it to young people is clearly evidenced in the media reporting of suicide content migrating across platforms https://www.bbc.co.uk/news/technology-54069650</p> <p>The charity has been active in the media with broadcast and print media to raise awareness through Molly’s story, particularly in relation to online harms relating to mental health impact and suicide of young people. With high levels of public and stakeholder engagement this serves as an example of the severe impact on individual users.</p> <p>While the inquest into Molly’s death continues, sharing evidence is not possible without risk to the inquest process. However, some years after the tragedy, the continued difficulty in gaining access to her data over a protracted timescale and lack of support for the official process by some VSPs indicates just how far short current VSP provided measures are from reasonable expectations. It should also be noted that without the ongoing actions of a supportive Senior Coroner, Molly’s inquest would have been completed with much more limited access to data pertinent to the case.</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?</p> <p>Please provide evidence to support your answer wherever possible.</p>	<p>ONS figures for suicide in the UK should be monitored. It should be noted that these figures necessarily lag current trends by several years (e.g. data collection and Coronial process must be allowed for). Perhaps the Regulator can use the technology of the VSPs to provide a quicker responding data set so that any change in trend is noticed as soon as possible in this potentially fast-changing and critical metric.</p>

	<p>Other similar metrics, for example for self-harm, should also be reviewed.</p>
<p>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?</p> <p>Please provide evidence to support your answer wherever possible, including any age-related considerations.</p>	<p>The Molly Rose Foundation welcomes the recognition that availability of harmful content through digital media has the most serious consequences for young and vulnerable people. Harms do not need to be illegal to have a particularly acute impact on young and vulnerable people. For example, hosting, promoting or prompting designed addiction to content that causes psychological harm such as self-harm, eating disorders or suicide. Illegal harms include those defined by the National Crime Agency:</p> <p><i>“Children face a range of abuse risks online, from the production and distribution of child abuse images, to the harmful effects of exposure to inappropriate content, to the growing scale of grooming facilitated by social networks. Platforms provide new opportunities for groomers to initiate and maintain their abuse”.</i> National Crime Agency (2018) National Strategic Assessment of Serious and Organised Crime 2018. London: National Crime Agency</p> <p>The organisations responsible for creating the issues are in many ways best placed to directly address them. Thus far their response has been inadequate and greater incentives to collaboratively apply their resources and expertise is essential. Systematically hosting harmful content must lead to substantial financial penalty for companies and personal liability for the executives responsible to protect minors. The Molly Rose Foundation strongly advocate that the consequences must stringently discourage planned non-compliance to boost profit or avoid inconvenient actions. There should be no “Ford Pintos” (Ref: Grimshaw v. Ford Motor Company, 1981), when the corporate cost/benefit analysis prompts a decision that it is financially beneficial to pay for the legal</p>

	<p>consequences rather than to put customer and public safety first. The outcomes could be similar to established corporate manslaughter legislation, which places Occupational Safety and Health responsibility with individuals, as well as financially discouraging organisations.</p> <p>The Molly Rose Foundation concurs with the NSPCC’s advocacy for a principles-based approach. With service providers subject to a legally enforceable and proportionate duty of care that requires identification of reasonably foreseeable risks and product and process assurance to mitigate risk for young and vulnerable people. Measures should:</p> <ul style="list-style-type: none"> • Establish the principle that service providers creating risk are responsible for the cost of addressing it. Rather than passing on a burden to parents, the young and vulnerable people, through the emotional, mental, physical, social and economic impact of online harms. • Assure industry compliance and cultural change in design and delivery of online services. • Ensure online safety gets better not worse by introducing a voluntary COP that is expansive in scope. It should be strongly encouraged by government, by publishing whether companies are complying.
<p>Question 23: What challenges might VSP providers face in the practical and proportionate adoption of measures that Ofcom should be aware of?</p> <p>We would be particularly interested in your reasoning of the factors relevant to the assessment of practicality and proportionality.</p>	<p>The harms specified in the government white paper are extensive. The Molly Rose Foundation recognise that these go beyond issues that relate to the risks to mental ill-health and suicide related content. Hence the breath of harms and resulting complexity of practical measures to mitigate the risk present the greatest challenge. Thus, it will require collective expertise of government, regulators, VSP providers and subject matter experts to adequately address it. A critical factor for</p>

	<p>success will be creating an environment which contains the infrastructure of TORs, forums and process that enables consolidated expertise to be sustainably applied.</p> <p>The risk to mental health is currently not fully understood. In the absence of scientific research that builds up a body of evidence over time, there is a lack of awareness and understanding of how content may impact on individuals.</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>Freedom of expression - to send and receive information and ideas is enshrined within Article 10 of the Human Rights Act but there is also an obligation within the Act to exercise this freedom in a way that does not pose a threat to 'public safety' or 'health'. The lack of proof that particular content has a detrimental impact on some individuals should not be taken as proof that there is a lack of impact. This is especially so as there may be evidence assembled from individual case studies that may suggest that such an impact is entirely feasible. Accordingly, VSPs and the regulator ought to proceed following the precautionary principle to avoid adversely impacting on safety, health and wellbeing until the science is available.</p> <p>There is a balance to be maintained between privacy and freedom of speech and unacceptable abuse without consequence. The current balance needs to be reset to be more consistent with the physical world and other social channels such as broadcast media. Lack of action to moderate content and encryption of data must not provide anonymity for abusers to harm others through their actions online, with no feasible means of being held accountable for their actions. A risk-based approach is essential to enable companies to focus the most problematic of harms. Specifically:</p> <ul style="list-style-type: none">• Service providers must demonstrate active consideration of safety for young and vulnerable people in decision making. Products and services must be consciously designed to be intrinsically safe or low risk.

	<ul style="list-style-type: none"> • Compliance should be assessed on a 'best endeavours' basis. All service providers adhere to a minimum; with the expectation that larger enterprises are more proactive in their approach through their greater capacity, capability and access to financial resources. <p>The Age Appropriate Design Code demonstrates how the VSPs might respond more effectively and immediately. This is not a question of censorship since the material will remain online - it is a simple question of platforms refraining from actively using a child's personal data to recommend material that harms the child, or in tragic cases like Molly's, may even push them to take their own life.</p> <p>The regulator's role (covered in other sections) is to build public trust and confidence through:</p> <ul style="list-style-type: none"> • Collaboratively establishing principles and COPs with VSPs and stakeholders. • Creating the infrastructure for application and continuous improvement. • Acting impartially on specific examples of potential harm. • Applying meaningful and proportionate sanctions.
<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 paragraph 2.32 and article 28(b)(7) in annex 5).</p> <p>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.</p>	<p>The ombudsman principle is well established in other industries to provide practical application of dispute resolution in a fair, consistent and transparent manner. It could be effectively applied to this issue by enabling good practice built up over many years to transfer from other sectors.</p>
<p>Question 26: How might Ofcom best support VSPs to continue to innovate to keep users safe?</p>	<p>It is important for Ofcom not to accept that VSPs have met compliance by simply applying an age filter question to access content or relying on parental monitoring. A determined young person will circumvent both.</p>

	<p>Service providers must fully share defined harm related data with the regulator with full transparency and accountability, which currently is currently severely lacking. Anonymised industry data can be shared by Ofcom in a manner that protects commercial considerations but it is important that a collective user safety advantage is prioritised by all VSPs. This type of sharing is well established in more mature industries perceived as “high risk” sectors, such as automotive, aviation and oil and gas.</p> <p>The discipline of VSP disclosure to Ofcom of how their products conform to their legal duty of care and prompt disclosure of breakdowns in online safety processes creating a material risk or harm, will also drive innovation within VSPs.</p>
<p>Question 27: How can Ofcom best support businesses to comply with the new requirements?</p>	<p>The Regulator should work with the industry and expert stakeholders to create clear and unambiguous Codes of Practice (COPs). Guidance can be issued to define what is proportionate and reasonable freedom of expression and what is not based on harm to other individuals. While this is a complex and dynamic balance, the principle is that VSPs should align to what is acceptable content via other channels. Through user terms and conditions, they can make this a clearly communicated condition of use. This approach can allow legislation to be applied flexibly, appropriately and dynamically, in a fast-moving sector that can outpace the legislative process.</p> <p>For good governance the regulator must be advised by an independent body made up of a cross section of expert advisors such as charities, academics and others with wide ranging experience of the issues arising. Funding of this board should come from a levy charged to the tech companies. For public confidence and sound governance, its funding must not come directly from commercial</p>

	<p>service providers to the board nor its members, to avoid conflict of interest.</p> <p>In addition, the Regulator and its independent advisory body should:</p> <ul style="list-style-type: none"> • Share best practice gathered across the VSP sector (domestic and international). • Commission/supporting scientific evidence on the impact of content shared on VSPs. • Pursue non-compliance among unregistered VSPs (i.e. the dark web) as well as those that are legitimately registered.
<p>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?</p>	<p>Establishing and broadly gaining stakeholder buy in to a set of principles is an essential first step and the Molly Rose Foundation welcome the draft of principles. In this fast moving, relatively immature sector, adaptability over time is a critical consideration. The regulator can be assisted to manage the tensions between the principles through the stakeholder engagement (industry, expert advisory panel etc) advocated above. A robust process to balance the risk and hazard with the benefits of outcomes is essential and while it will not unfailingly create a consensus, the principles will guide decision making.</p> <p>Again, freedom of expression - to send and receive information and ideas is enshrined within Article 10 of the Human Rights Act but there is also an obligation within the Act to exercise this freedom in a way that does not pose a threat to 'public safety' or 'health'. The lack of proof that particular content has a detrimental impact on some individuals should not be taken as proof that there is a lack of impact. This is especially so as there may be evidence assembled from individual case studies that may suggest that such an impact is entirely feasible. Accordingly, VSPs and the regulator ought to proceed following the precautionary principle to avoid adversely</p>



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