

Your response

Question	Your response
Question 1: Do you have any comments on Section 3 of the draft guidance on harmful material and related definitions?	<p>We recognise that the AVSD and the 2011 Directive (2011/9/EU) use the archaic phrase “child pornography”. That is a term we no longer regard as appropriate, as can serve to legitimise what are actually images of abuse, for example para 3.29 and 3.30 refer. Please remove footnote 18 or amend to read “These are clearly set out in UK legislation”.</p> <p>3.8, the explanation of BBFC guidelines regarding material that is in breach of criminal law and risks harm to individuals is helpful. We would like to see platforms action the removal of material that clearly incites or encourages actions that constitute an immediate and severe risk to life but are not deemed directly illegal. For example, whilst a video that documents and instructs a young migrant on how to clandestinely enter an HGV may not be in and of itself illegal, it is directly promoting behaviours which have led to terrible loss of life in the recent past.</p>
Question 2: Do you have any comments on the draft guidance about measures which relate to terms and conditions, including how they can be implemented?	<p>It would be helpful for Terms and Conditions to include explicit provision for sharing information (including customer information) by VSPs with police and other partners for the purpose of the preventing and detecting crime.</p> <p>It would be good practice for Terms and Conditions to explicitly set out the material that cannot be hosted on their platform.</p> <p>We welcome the emphasis on simple and easy to understand, unambiguous guidelines for children and for those whose grasp of the English language is not strong.</p>
Question 3: Regarding terms and conditions which prohibit relevant harmful material, do you have any comments on Ofcom’s view that effective protection of users is unlikely to be achieved without having this measure in place and it being implemented effectively?	

Question 4: Do you have any comments on Ofcom's view that, where providers have terms and conditions requiring uploaders to notify them if a video contains restricted material, additional steps will need be taken in response to this notification to achieve effective protection of under-18s, such as applying a rating or restricting access?

Question 5: Do you have any comments on the draft guidance about reporting or flagging mechanisms, including on Ofcom's view that reports and flagging mechanisms are central to protecting users?

Question 6: Do you have any comments on the draft guidance about systems for viewers to rate harmful material, or on other tagging or rating mechanisms?

On point 5:

It is important that users must have a simple method to report all material they believe to be illegal on the platform for the platform to deal with. It would be for the platform then to determine whether it fell within their own policy and what action to take. The NCA response to the call for Evidence set out examples in detail of what that would include.

4.66-4.69 are very welcome and the speed from report to when material is no longer available to users should be included in the effectiveness measures. Further it would be helpful to also reference child sexual abuse material in 4.66, as this a requirement all the time. These measures should be broken down by the different types of illegal or harmful material.

Transparency of reporting and flagging is essential, but should retain protections for the reporter and for law enforcement activity as necessary. This is particularly important where the content is illegal . For example it would helpful for the guidance to be specific that VSPs should not flag illegal content this to the user who has uploaded the video, as this may alert them to the interest of law enforcement and lead them to destroy any evidence that may be found in a subsequent investigation.

The NCA considers that VSPs should be pre-screening for child sexual abuse material, at upload and download and if not, be able to explain why they are unable to do so.

Question 7: Do you have any comments on the draft guidance about age assurance and age verification, including Ofcom's interpretation of the VSP Framework that VSPs containing pornographic material and material unsuitable for classification must have robust age verification in place?

As set out in the NCA response to the call for evidence, the NCA considers that rigorous age and identity verification procedures should be implemented to ensure that individuals who seek to use VSPs are who they say they are (this includes adults posing as children, as well as children posing as adults).

Question 8: Do you have any views on the practicalities or costs relating to the implementation of robust age verification systems to prevent under-18s from accessing pornographic material and material unsuitable for classification? Please provide evidence to support your answer wherever possible.

Question 9: Do you have any comments on the draft guidance about parental control systems?

Question 10: Do you have any comments on the draft guidance about the measure regarding complaints processes or on the regulatory requirement to provide for an impartial dispute resolution procedure?

Question 11: Do you have any comments on the draft guidance about media literacy tools and information?

Question 12: Do you have any comments on the with the draft guidance provided about the practicable and proportionate criteria VSP providers must have regard to when determining which measures are appropriate to take to protect users from harm?

<p>Question 13: Do you have any comments on the draft guidance about assessing and managing risk?</p>	<p>Please remove the reference to “NCA-CEOP (National Crime Agency)” in para 6.15. Direct reporting is currently to IWF and NCMEC, rather than the NCA.</p> <p>It will be important for there to be transparency and sharing of regular reporting about the level of risk and the effectiveness of the VSP’s protection measures.</p>
<p>Question 14: Do you have any comments on the impact assessment in Annex 1, including the potential impacts to VSPs outlined in tables 1 and 2, and any of the potential costs incurred (including any we have not identified)?</p>	
<p>Question 15: Do you have any comments on our provisional assessment that the potential costs for providers are proportionate to achieve the regulatory requirements of the regime?</p>	
<p>Question 16: Do you have any comments on any other part of the draft guidance?</p>	<p>The NCA would like to see transparency reporting to a prescribed timescale, with a summary included in the annual reports and accounts of VSPs and subject to independent verification.</p> <p>In the Additional Steps to Protect Users section:</p> <p style="padding-left: 40px;">This approach relies on user reporting. Providers of other types of platform have or are developing approaches to actively seek out harmful material and to screen material before it is made available, rather than simply relying on user reporting.</p> <p style="padding-left: 40px;">The guidance should expand on 6.12 to 6.15 to recommend that VSPs (either themselves or by using third parties) consider proactive measures to: prevent uploading; and to search out illegal and harmful material on their platform. These can provide better protection for users than reporting alone, as they are quicker, more comprehensive and provide insight into the level of risk and the effectiveness of protection measures.</p>