

Your response

Introduction

Spotify AB (“Spotify”) welcomes the opportunity to respond to Ofcom’s Call for Evidence on categorising regulated services under Online Safety Bill (“the Bill”). We have been following the discussions on the Bill for some time and have a number of questions regarding how to interpret the legislation with respect to Spotify’s different services. In the interim, we wish to respond to Ofcom’s Call regarding how to categorise services under the Bill.

Spotify's mission is “to unlock the potential of human creativity – by giving a million creative artists the opportunity to live off their art and billions of fans the opportunity to enjoy and be inspired by it.” Originally founded as a music streaming service in 2006, Spotify has evolved into a wider audio streaming offering, providing users in the UK and around the world on-demand access to a comprehensive catalogue of music tracks, podcasts and audiobooks. Achieving this mission is made possible by welcoming different forms of artistic expression, ideas, perspectives, and voices, but it does not mean that anything goes on Spotify’s platform. We have a comprehensive set of policies and procedures in place to provide all users a safe and enjoyable experience.

As a general principle, Spotify supports risk-based regulation that effectively addresses legitimate online harms, while avoiding unnecessary burdens on businesses and innovation. The designation of a service as a Category 1, 2A or 2B service under the Online Safety Bill will impose additional, substantial obligations on those providers. As such, it is vital to take a targeted approach to their identification. **Spotify advocates for a nuanced, holistic risk assessment that takes into account key differences between online services and how services would measure relevant users for the purposes of the Bill, as well as aspects of the business model, commercial incentives, area of activity and features/functionality that lead to a higher risk of harm to UK consumers.**

In particular, we believe it is important that Ofcom distinguishes between online services which distribute licensed content to end users on the one hand, and services that are composed primarily of user-generated content, optimise for interaction, the sharing of user-generated content among end users and the potentially viral dissemination content, or act as a forum for public debate on the other hand. We also encourage Ofcom to examine differences between content types as part of an overall risk assessment. Audio content is different from videos or textual posts, for example, not only in how it is produced and made available online, but also in how users interact with it. Importantly, a user needs to actually listen in order to consume audio content, even if only for a second.

While no online service is immune to the presence of problematic content - a risk Spotify takes extremely seriously - we believe that licensed audio streaming services cannot be equated to social media platforms, nor should they be treated as high-risk under the Bill. As Ofcom prepares to enforce the new legal framework, **a nuanced and measured approach to categorising services will be crucial** to ensure that the regulation is well-targeted and avoids hampering innovative online services where the risk is lower or negligible. Getting categorisation right is also important for legal precedent, given this is the first time such a classification will apply to services under UK law.

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<p>Question 1: How do you measure the number of users on your service?</p>	<p>Confidential? – N</p> <p>It is important to first explain Spotify’s different services. Spotify was founded as a music streaming service in 2006 to offer a viable alternative to online piracy. What was then a music industry in rapid decline is now approaching a decade of growth built on the strength of music streaming. This global trend is mirrored in the UK, which was the third largest recorded music market in the world in 2022 and the largest recorded market in Europe. In 2022, fueled by yet another year of strong growth in audio streaming (+8.2%), UK artists gained unprecedented popularity, dominating the top 10 singles charts and spending 36 weeks at number one, more than in any previous year this century.</p> <p>Since its founding, the primary Spotify consumer experience (the “Spotify Service”) has been the distribution of musical works to audiences. In recent years, it has evolved to become a broader audio offering, providing end users on-demand access to a catalogue of songs, podcasts and audiobooks. Spotify has been present in the UK for almost 15 years and is proud to contribute to its vibrant and growing market for audio content.</p> <p>Today, most of the content that the Spotify Service makes available to its end users, and the vast majority of what users actually engage with, is licensed to Spotify via arms-length B2B licence agreements. For music, this means deals with record labels and publishers; for podcasts, it involves deals with reputable third parties, such as world-renowned organisations like the BBC or The New York Times. The Spotify Service is not built to allow users to upload and share their own audio content (“user generated content”) - there is simply no functionality within Spotify that allows this today.</p> <p>Spotify also offers additional services that are separate from the main Spotify Service and are aimed at enabling creators to pursue their art and grow their online presence. These services include, for example, Spotify for Podcasters, which is a creator-facing service allowing users to create, host and monetise their podcasts. Spotify for Podcasters is also a distribution and analytics tool for podcasters who host their podcast on third-party podcast hosting providers. Spotify for Podcasters is not designed as a consumption platform for the general public: rather, creators can decide to make their podcasts available on a number of podcast distribution services, including Apple Podcasts, Google Podcasts, Stitcher, Pocket Casts, Spotify, and more. Spotify for Podcasters must be downloaded separately from app stores in order to use it and is not part of Spotify’s consumer app. Spotify also operates Findaway Voices, which enables easy publishing of audiobooks that can be submitted to retail platforms, including Spotify, Apple, Google, Amazon, Rakuten Kobo, Audible, and dozens more. Again,</p>

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	<p>Findaway Voices is not part of Spotify’s consumer app and must be accessed separately from the main service in order to use it.</p> <p>Bearing in mind the above specificities and the scope of the Online Safety Bill, Spotify has a number of questions regarding how to interpret the Bill with respect to its different services. In the meantime, Spotify continues to invest into becoming the best platform for all audio creators, including exploring ways for artists to connect with their fans more directly. In that context, we wish to address how we believe it would be appropriate to measure “users” under the future legal framework.</p> <p>Broadly speaking, Spotify believes it would be essential to focus on users of the relevant part of the service, especially in cases where some parts of an overall offering are in scope of the Bill but others are clearly not. The Bill defines user-to-user (U2U) services as online services where users may encounter content that has been generated, uploaded or shared by other users. This definition does not apply to the vast majority of Spotify’s activity, which, as noted above, involves making audio content licensed to Spotify via arms-length B2B licence agreements available to end users. Additionally, there is no functionality allowing users to share content with each other directly in the app today. If any elements of the Spotify Service were to fall under the definition of a U2U service in the future, we believe it would only be reasonable to measure those end users of the Spotify Service who engage with the U2U part of the service as defined by the Bill.</p> <p>Additionally, Spotify is an audio-focused service. Users interact with audio content by listening to it. In an audio environment, users evaluate content with their ears and very often listen in the background while doing other things - like cooking, exercising or socialising with friends. The need for users to listen to content on Spotify in order to engage with it and users’ propensity for background-listening are crucial differences between audio streaming services and other types of digital services, such as social media or video-sharing platforms, in which the mere act of “scrolling” can result in users engaging (perhaps unintentionally) with a greater deal of content.</p> <p>In summary:</p> <ul style="list-style-type: none"> • Who counts as a user for those purposes? For example, are users defined as individuals who visit the service, individuals who interact with the service, individuals who have an account with the service, or individuals who request the service to host information. If you measure users on your service in more than one way, please include all relevant approaches. <ul style="list-style-type: none"> ○ For the purposes of the Bill and in a future scenario where certain aspects of Spotify’s audio content offering could be considered user-

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	<p>generated content, Spotify would define “users” as the end users of the Spotify Service in the UK who have consumed <u>applicable</u> audio content, that is, audio content created and uploaded directly to the Spotify Service by end users. We would define consumption as listening to the content for more than zero milliseconds in the previous thirty days. This definition of consumption is clear, conservative and consistent with how Spotify measures users for other reasons, e.g. the global user metrics reported in Spotify Technology S.A.’s public financial filings. We believe it would be inappropriate and disproportionate to consider Spotify end users who only interact with licensed content and therefore do not engage with a U2U service, just as it would be unreasonable to consider users of a service that offers no user-generated content at all and are not covered by the Bill.</p> <ul style="list-style-type: none"> • With what frequency do you measure the number of users on your service? e.g, monthly. <ul style="list-style-type: none"> ○ For the purposes of the Bill, Spotify would measure relevant users (as described above) on a monthly basis. This would be consistent with our public financial filings, for which we generally measure users over a period of one month and report them quarterly, albeit using a separate methodology. • Do you de-duplicate the number of users in your measurements? If so, how? <ul style="list-style-type: none"> ○ We believe that while there are individuals who have multiple Spotify accounts, which we treat as multiple users for purposes of calculating our global monthly active users, there are also Spotify accounts that are used by more than one person. Accordingly, the calculations of our global monthly active users in our public financial filings may not reflect the actual number of people using our Service. It is possible we may be able to de-duplicate the number of users for the purposes of the Bill, depending on the nature and purpose of the measurement. • Do you measure different geographic units in relation to numbers of users? For example, country, region, market, global, city. <ul style="list-style-type: none"> ○ While we currently only report users of the Spotify Service on a global basis, we would be able to measure relevant users at country-level for the

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	<p>purposes of the Bill, i.e. those UK users who listen to more than zero milliseconds of applicable audio content in the previous thirty days.</p> <ul style="list-style-type: none"> • Do you break down the number of users on your service by their age? e.g., child users. <ul style="list-style-type: none"> ○ Spotify collects date of birth from users during sign-up.
<p>Question 2: If your service comprises a part on which user-generated content is present and a part on which such content is not present, are you able to distinguish between users of these different parts of the service? If so, how do you make that distinction (including over a given period of time)?</p>	<p>Confidential? – N</p> <p>We can distinguish between users of the different parts of its service, including users who interact with - that is, start listening to - audio content that is made available on Spotify through different partners and channels, even if only for a fraction of a second.</p>
<p>Question 3: Do you measure different segments of users on your service?</p> <ul style="list-style-type: none"> • Do you segment user measurement by different parts of your service? For example, by website vs app, by product, business unit. • Do you segment user measurement into different types of users? For example: creators, accounts holders, active users. • How much flexibility does your user measurement system have to define new or custom segments? 	<p>Confidential? – N</p> <p>In our public financial filings we measure users of the Spotify Service in different ways. These include Monthly Active Users (“MAUs”, the total count of Ad-Supported Users and Premium Subscribers that have consumed content for greater than zero milliseconds in the last thirty days from the period-end indicated), Ad-Supported users (users who do not pay subscription fees and have limited on-demand online access to the catalogue of music and unlimited online access to the catalogue of podcasts) and Premium Subscribers who, in the UK, pay a monthly subscription fee and enjoy a music listening experience without commercial breaks. We are also able to measure users of the Spotify Service by creator versus account holder versus monthly active user, and whether they are accessing the service on desktop or mobile application or via other application/client.</p> <p>If additional user measurements are required, we may be able to produce these on a reactive basis, but it will depend on the nature of the metric and typically takes time to evaluate, execute and audit new metrics to ensure they are of reasonable accuracy.</p>

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<p>Question 4: Do you publish any information about the number of users on your service?</p>	<p>Confidential? – N</p> <p>In its public financial filings, Spotify reports the number of global “Monthly Active Users” (MAUs) of the Spotify Service. We do not report MAUs by geographic unit, nor do we report users of the individual part of the Spotify Service or additional services. We do not believe that the MAUs that we report in our public financial filings are relevant for the purposes of counting users under the Bill for reasons set out above.</p>
<p>Question 5: Do you contribute any user number data to external sources/databases, or help industry measurements systems by tagging or sharing user measurement data? If not, what prevents you from doing so?</p>	<p>Confidential? – N</p> <p>N/A</p>
<p>Question 6: Do you have evidence of functionalities that may affect how easily, quickly and widely content is disseminated on U2U services?</p> <ul style="list-style-type: none"> • Are there particular functionalities that enable content to be disseminated easily on U2U services? • Are there particular functionalities that enable content to be disseminated quickly on U2U services? • Are there particular functionalities that enable content to be disseminated widely on U2U services? • Are there particular functionalities that prevent content from being easily, quickly 	<p>Confidential? – Y / N</p> <p>It is widely agreed upon that functionalities which enable individual users to create and share content, especially without friction/immediately, to communicate with one another in open forums, to create online communities, and/or to exchange information and ideas in social networks contribute to the rapid and wide (or “viral”) dissemination of content.</p> <p>These functionalities are not characteristic of Spotify today. First and foremost, the Spotify Service is primarily composed of audio content distributed through licensing and publishing partnerships with music, audiobook and podcast distributors, and original content produced through in-house studios. Such content is not user-generated and comes from trusted sources, namely licensors like the record labels, well-known broadcasters or publishing houses, or Spotify itself in the case of original podcast content.</p> <p>There is currently no functionality within the Spotify Service that would allow end users to create audio content and have it appear on the service. There is also no in-app “share” feature on the Spotify Service of the type that is characteristic of social networks and leads to the rapid posting and reposting of content created by end users. The Spotify Service is not designed to be a forum for public debate or the exchange of</p>

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<p>and widely disseminated on U2U services?</p>	<p>ideas, and does not currently offer functionalities to that effect.</p> <p>Compared to services composed primarily of user-generated content, which are designed for social engagement and/or operate according to commercial incentives that reward the sharing of content, we consider the functionalities of Spotify as an audio streaming service providing licensed content to present a comparatively much lower risk of harm to end-users.</p> <ul style="list-style-type: none"> • Are there particular functionalities that enable content to be disseminated easily on U2U services? <p>The Spotify Service does not currently offer functionalities that enable content to be easily disseminated on our platform. As noted above, there is currently no possibility for users to create and upload audio content they themselves generated directly within the Spotify Service. There is also no in-app “sharing” functionality on Spotify that would allow users to share content with other users, let alone frictionless / immediate sharing of the type that exists on social networks.</p> <p>Other functionalities that tend to enable easy content dissemination include content sharing in a community forum, especially without requiring a user to be a member or subscriber of the community, or allowing content to be uploaded to the platform without any prior selection, vetting or review by a relevant service provider before being published and visible to a multi-user public audience. These functionalities are typically underpinned by commercial incentives that reward the uploading and sharing of content and, as noted above, are not currently functionalities offered by Spotify.</p> <ul style="list-style-type: none"> • Are there particular functionalities that enable content to be disseminated quickly on U2U services? <p>Features which allow end-users to instantly upload and spread their own content or content posted by other end users within a service, either publicly on a personal profile or within a feed published to their audience, enable the rapid dissemination of content on a U2U service. Again, the Spotify Service does not currently offer features that enable end users to share audio content at all, let alone in public feeds or with multi-user audiences at once, nor is it possible for an end-user to create and publish audio content directly on the Spotify Service.</p>

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	<ul style="list-style-type: none"> <li data-bbox="655 271 1294 360"> Are there particular functionalities that enable content to be disseminated widely on U2U services? <p data-bbox="603 427 1326 891">Features that aggregate content into a feed of the most relevant and/or of interest content at a given time, typically curated using user engagement features such as a 'like' or 'upvote' button that measure the popularity of a piece of content, and help drive algorithmic recommendations to give more visibility to a piece of content to a wide audience of users, enable content to be widely disseminated. Additionally, features that optimise for social engagement amongst users, such as making it easy for users to make new connections or acquire followers or subscribers, as well as functionalities that are designed to facilitate the potential viral spread of information, transcending geographical borders and different digital products or services, are of course relevant to consider.</p> <p data-bbox="603 954 1321 1352">As a service, Spotify provides personalised recommendations largely based on a user's own listening habits, for instance taking into account the songs or podcasts users like or skip, and does not enable users to share their preferred audio content with other users directly within the Spotify Service. Spotify also offers platform-wide recommendations for promotional purposes and curated playlists, consisting of content pre-selected by Spotify, and provides Spotify Charts to show which content is resonating around the world and in local markets. Virality is not a design feature of Spotify or audio streaming services generally speaking.</p> <ul style="list-style-type: none"> <li data-bbox="655 1415 1307 1505"> Are there particular functionalities that prevent content from being easily, quickly and widely disseminated on U2U services? <p data-bbox="603 1572 1374 1939">Largely because of the licensed content offering on Spotify and how the Spotify Service is designed, user-generated content does not spread easily, quickly and widely on our platform. Should this change in the future, there are a number of additional features on Spotify that give users more privacy controls over who can see or share their content and in turn help to prevent content dissemination. For example, we do not provide awards or incentives for how user content is received by other users, users need to approve access by other users to content on their profiles/user pages, and users can choose to block other users from following them on the main Service.</p>

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	<p>Additionally, requiring content to pass through review or vetting systems (whether human or automated) can act as a safeguard to prevent certain types of content from being published and disseminated easily, quickly and widely on a service. Licensed content for example, such as that primarily distributed on the Spotify Service, is from trusted sources and typically requires that creators comply with a robust set of terms and conditions, policies, and quality standards (as defined by record labels, established broadcasters, and publishers for example) prior to distribution.</p> <p>While not a product functionality per se, it is important to consider the vital role that a comprehensive set of Trust & Safety policies and moderation practices can play in minimising the risk of illegal or harmful content being disseminated to users on any given service. This includes having a robust set of content policies that apply across all user facing services and content types, and a set of internal processes and procedures to promptly remove violative content. Services that invest in continuous content enforcement measures can greatly reduce the risk of users engaging with harmful content and help foster a safe and healthy environment for their users. For example, Spotify takes a number of measures to promote a safe platform related to our policies, tools, and people. We continue to make significant investments in expanding the global coverage of our content moderation review teams to ensure the safety of the Spotify community with support across our markets, including the UK. One example of this was Spotify’s recent acquisition of Kinzen, an Ireland-based, global leader in protecting online communities from harmful content that is particularly specialised in podcast and audio content.</p>
<p>Question 7: Do you have evidence relating to the relationship between user numbers, functionalities and how easily, quickly and widely content is disseminated on U2U services?</p>	<p>Confidential? – N</p> <p>N/A</p>
<p>Question 8: Do you have evidence of other objective and measurable factors or characteristics that may be relevant to category 1 threshold conditions?</p>	<p>Confidential? – N</p> <p>The following additional factors may be relevant to consider when assessing the overall risk of illegal and harmful content appearing and spreading on a service in ways that cause real harm offline:</p>

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	<ul style="list-style-type: none"> • The number of orders received from competent UK authorities to act against unlawful content issued against the service provider in the preceding 12 months; • The volume and value of economic transactions involving unlawful content on the service in the preceding 12 months; • Whether users can upload and/or share content with minimal or no friction; • Whether the engagement of users to the types of illegal content present on a platform poses material risks to individuals or society, in particular to informed public debate, human rights and dignity, or democratic processes.
<p>Question 9: Do you have evidence of factors that may affect how content that is illegal or harmful to children is disseminated on U2U services?</p> <ul style="list-style-type: none"> • Are there particular functionalities that play a key role in enabling content that is illegal or harmful to children to be disseminated on U2U services? • Do you have evidence relating to the relationship between user numbers, functionalities and how content that is illegal or harmful to children is disseminated on U2U services? 	<p>Confidential? – N</p> <p>Spotify’s main service is currently available to individuals in the UK who are aged 13+. We take the safety of all users extremely seriously, in particular that of younger audiences, and have already made substantial investments to continuously improve safety across all content types. This includes investing significant resources to comply with the UK’s Age Appropriate Design Code, for example.</p> <p>In comparison to other services, the scale of harm to children on Spotify is currently extremely low, largely because users are unable to create and share their own audio content within the main consumption app and due to the licensed nature of the content offering. Additionally, audio consumption does not raise issues such as excessive screen time or compulsive use, nor does it contain the types of social features presenting serious risk of social anxiety or cyberbullying.</p> <p>However, understanding that no platform is immune to harmful content and that perpetrators are becoming smarter, more creative and determined in finding new ways to cause online harm, we make continuous investments in our safety features and user controls to minimise the risk of younger audiences being exposed to inappropriate content. This includes taking a holistic, expert-informed approach which combines several complementary measures. We continue to invest in policies and tooling to enable the automatic detection and removal of any child sexual abuse material (CSAM), provide users with the ability to report violative content that may have gone undetected, have procedures to report abusive content to the relevant authorities, and are able to terminate accounts and repeat rule-breaking offenders. We also provide parental guidance on how parents and guardians can help their children to navigate their Spotify experience in safe manner, and provide in-app warnings and support for younger users who</p>

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	<p>may seek out potentially harmful content, for instance self-harm or suicide material.</p> <p>Since 2020, Spotify has integrated feedback from Thorn, a nonprofit dedicated to building technology to defend children from sexual abuse, to better understand the child safety space and identify emerging trends, leveraging their product Safer, which is designed to detect, identify, and report child sexual abuse material at scale. We also announced in May of 2023, that Thorn would join our Safety Advisory Council, further demonstrating Spotify’s commitment to child safety.</p> <p>We also have clear age limitations to use the Service (13+) and deploy age-gate enforcement to ensure users meet the minimum legal age requirements to use the Spotify service. We ask users for their age at sign-up and if Spotify reasonably believes at any time (for example because we’re told by a user or their parent) that a user is under the minimum age (i.e. they gave a false age at registration), we close the account, explaining to the underage user that their account is being deleted due to non-compliance with Spotify’s terms. We also explain this in Section 9 (Children) of our Privacy Policy.</p> <p>Other examples of child-safety focused measures include providing users of the Spotify Service (including parents/guardians) with filtering controls to block out or restrict listening to content labelled as explicit by rightsholders and content providers. Tailored ads are turned off by default for users under age 18 in the UK.</p> <ul style="list-style-type: none"> • Are there particular functionalities that play a key role in enabling content that is illegal or harmful to children to be disseminated on U2U services? <p>As with adult users, functionalities that are designed with the substantial purpose of encouraging the rapid circulation of information from one user to another, to a community of users, or the frequent and continuous social engagement amongst users, may pose a risk to younger users if harmful or illegal content is disseminated, and if at a rate faster than it can be detected.</p>
<p>Question 10: Do you have evidence of other objective and measurable characteristics that may be relevant to category 2B threshold conditions?</p>	<p>Confidential? – N</p> <p>N/A</p>

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<p>Question 11: Do you have evidence of matters that affect the prevalence of content that (once the Bill takes effect) will count as search content that is illegal or harmful to children on particular search services or types of search service? For example, prevalence could refer to the proportion of content surfaced against each search term 16 that is illegal or harmful to children, but we welcome suggestions on additional definitions.</p> <ul style="list-style-type: none"> • Do you have evidence relating to the measurement of the prevalence of content that is illegal or harmful to children on search services? 	<p>Confidential? – N</p> <p>N/A</p>
<p>Question 12: Do you have evidence relating to the number of users on search services and the level of risk of harm to individuals from search content that is illegal or harmful to children?</p> <ul style="list-style-type: none"> • Do you have evidence regarding the relationship between user numbers on search services and the prevalence of search content that is illegal or harmful to children? 	<p>Confidential? – N</p> <p>N/A</p>

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Question 13: Do you have evidence of other objective and measurable characteristics that may be relevant to category 2A threshold conditions?	Confidential? – N N/A

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