Consultation response form

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

Consultation title	Consultation: Protecting children from harms online
Organisation name	CEASE (Centre to End All Sexual Exploitation)

CEASE has responded to some questions but not all.

Your response

Question	Your response
Volume 2: Identifying the services children are using Children's Access Assessments (Section 4).	
Do you agree with our proposals in relation to children's access assessments, in particular the aspects below. Please provide evidence to support your view. 1. Our proposal that service providers should only conclude that children are not normally able to access a service where they are using highly effective age assurance? 2. Our proposed approach to the child user condition, including our proposed interpretation of "significant number of users who are children" and the factors that service providers consider in assessing whether the child user condition is met? 3. Our proposed approach to the process for children's access assessments?	**Confidential? – N** Questions 1 and 3: CEASE agree with Ofcom's proposal that service providers should only conclude that children are not normally able to access a service where they are using highly effective age assurance. Specifically in relation to pornographic content, CEASE agree with proposals AA1 and AA3 (volume 5, page 35) that any content provider that hosts pornographic content must use highly effective age assurance to prevent children from accessing either the entire service (in circumstances were only pornography is hosted by that platform) or encountering pornography (were the platform does not have a principle purpose of hosting primary priority content). However, given the lack of an appropriate definition of what 'highly effective' age assurance is, CEASE is deeply concerned about how this will be implemented and enforced. See below section relating to Age assurance measures (Section 15) for further in-depth analysis and recommendations. Further, CEASE is concerned with the proposals outlined in paragraphs 2.21 to 2.23 (Annex A5, page 7), which state that a service has 3 months to complete its first access assessment. The draft guidance states that part 3 services in existence at the time of the guidance, or services that fall under part 3 of the Act after the guidance is issued (including new services) have a 3-month grace period to make an assessment and either put age assurance in place or undertake the risk assessment process. While we understand that a grace period of 3 months is legislated for within the Act, CEASE is concerned about what leeway this will give to user-to-user services that host PPC such as pornographic content. Children have already been left for years to

Question	Your response
	protect themselves online from pornographic content with disastrous consequences, as outlined by Ofcom's own evidence gathering.
	It is unclear why user-to-user services, specifically dedicated pornography sites, who have known, not just since the passing of the Act in October 2023, but since the Digital Economy Act in 2017 that they would need to implement age assurance, need another 3 months, post publishing of the Ofcom guidance to implement age assurance. By virtue of being a pornography site, they are mandated to have highly effective age assurance, as outlined in the Act and Ofcom's own guidance. A three-month grace period to undertake a risk assessment is not required. Similarly, for services that are not dedicated pornography sites but allow pornographic content on their site, as per their terms of service, they have been aware since October 2023 (and before the Act was officially passed) that they needed to adhere to age assurance requirement as outlined in the Ofcom guidance and the Act itself.
	Children who have already waited years to be protected from online pornography should not be made to wait any longer.
	In the case of a newly formed user-to-user service that wishes to host pornographic content on its site, it is unclear why they are being given 3 months to ensure they implement highly effective age assurance. If they cannot guarantee that children cannot access pornographic material on their site, as soon as it is published, they should not be permitted to publish their website. In no other situation, where there is a real and imminent threat to a child's welfare would any service be allowed to open and operate without safety measure in place, either online or offline.
	Further, what is to stop a service, either newly formed or otherwise from simply creating a new domain name every 3 months and avoiding regulation altogether. This is a loophole that must be closed.
	If Ofcom believe this to be beyond their control as the Act allows for a grace period of 3 months, we strongly urge Ofcom to bring this matter to the new Secretary of State as a matter of urgency.
	Further, in line with concerns from the wider child protection sector, CEASE is concerned that Ofcom do not give due regard to ensuring services implement their own terms of service in relation to age access requirements. Ofcom note that content can

Question	Your response
	affect children of varying ages differently and services should adhere to their own terms of service about the age limits they impose on who can access their sites, for example Instagram purport to only allow children 13 years or older on their site (in the UK). However, the draft guidance does not include a provision that any age access requirements in a provider's terms of service must actually be complied with. As outlined in the Children's Coalition's Joint Statement on the Codes of Practice, of which CEASE is a signatory, 'it is vital that the youngest children are no longer able to access platforms which are not intended for them, and that services are required to create age-appropriate experiences. We must see a change in Ofcom's approach so that services are explicitly required through the regulation to enforce their minimum age limits.'[1]

Volume 3: The causes and impacts of online harm to children

Draft Children's Register of Risk (Section 7)

Proposed approach:	**Confidential? – N**
4. Do you have any views on Ofcom's assessment of the causes and impacts of online harms? Please provide evidence to support your answer.	Questions 4a and 9:
	CEASE agree that Ofcom's outline of the risk of harm as it pertains to children accessing pornographic content is broadly accurate, however it fails to significantly cover the risks to children from both AI-generated pornographic content and applications on both user-to-user services and search services and audio pornography on user-to-user services.
a. Do you think we have missed anything important in our analysis?	
5. Do you have any views about our interpretation of the links between risk factors and different kinds of content harmful to children? Please provide evidence to support your answer.	**AI-generated pornography:**
	Section 7.1.47 is the only mention of AI-generated pornography including 'deepfake' pornography in the entirety of the section on pornography, Section 7.1. There is no mention that CEASE is aware of in the entire Draft Children's Register of Risk (Section 7) of 'nudifying' apps. This is deeply concerning given the already substantial risk that AI-generated pornography is posing to children and the very real concern that that risk is growing at an exponential rate as AI technology is rapidly improving.
6. Do you have any views on the age groups we recommended for assessing risk by age? Please provide evidence to support your answer.	
7. Do you have any views on our interpretation of non-designated content or our approach to identifying non-designated content? Please provide evidence to support your answer.	As AI technology has rapidly advanced, AI-generated pornography has become increasingly common online. Alongside this, has been the creation of 'nudifying' apps – apps that are de-

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[1] Children's Coalition's Joint Statement on the Codes of Practice, July, 2024: https://5rightsfoundation.com/static/Childrens-Coalition---Joint-Statement-on-the-Childrens-Safety-Duties-Code-of-Practice.pdf

Question	Your response
Evidence gathering for future work: 8. Do you have any evidence relating to kinds of content that increase the risk of harm from Primary Priority, Priority or Non-designated Content, when viewed in combination (to be considered as part of cumulative harm)? 9. Have you identified risks to children from GenAI content or applications on U2U or Search services? a) Please Provide any information about any risks identified 10. Do you have any specific evidence relevant to our assessment of body image content and depressive content as kinds of non-designated content? Specifically, we are interested in: a) (i) specific examples of body image or depressive content linked to significant harms to children, b. (ii) evidence distinguishing body image or depressive content from existing categories of priority or primary priority content. 11. Do you propose any other category of content that could meet the definition of NDC under the Act at this stage? Please provide evidence to support your answer.	signed to undress women using AI. The vast majority of AI-pornography currently circulating on the Internet is made using the likeness of non-consenting individuals.[2] Given the nature of the internet and the ubiquity of this type of content however, it is difficult to truly know how much 'deepfake' pornography is actually online. Analysis conducted by Deeptrace (now Sensity) estimated that over 96% of AI-generated pornography online was produced without the consent of the supposed individual featured.[3] In a March 2024 survey with 2000 British people, ESET, a global leader in cybersecurity, found that 1 in 10, or 9% of people in the UK reported either being a victim of 'deepfake' pornography or knowing a victim, or both.[4] Young people are particularly worried about becoming a victim of 'deepfake' pornography. The same survey from ESET found that 57% of under-18s are concerned about becoming a victim of deepfake pornography'.[5] AI-generated pornography is increasingly accessible. Online websites and forum pages offer tutorials on how to craft 'deepfakes' of non-consenting third parties or offer to create deepfake pornography for a nominal fee.[6] As AI-technology has advanced, it has become increasingly easier to craft realistic pornographic images of a non-consenting person with relatively few resources.[7] Compounding this further, this increasingly accessible technology has been marketed to children. In various recent cases in the United States, after viewing advertisements on social media platforms like TikTok, teenagers began using online apps which purported to create nude images of a third-party to craft deepfakes of classmates.[8] 'Nudifying' apps can be used to easily generate supposed 'nude' images of a non-consenting person. As other types of 'deepfake' pornography, people can very simply, upload a photo (of anyone) to a 'nudifying' app or website, and it will then produce

[2] Tom Simonite, 2019, Most Deepfakes are Porn, and They're Multiplying Fast: https://www.wired.com/story/most-deepfakes-porn-multiplying-fast/.

[3] Emine Saner, 2023, Inside the Taylor Swift deepfake scandal: It's men telling a powerful woman to get back in her box: https://www.theguardian.com/technology/2024/jan/31/inside-the-taylor-swift-deepfake-scandal-its-men-telling-a-powerful-woman-to-get-back-in-her-box.

[4] ESET, 2024, Digital Security: Nearly two-thirds of women worry about being a victim of deepfake pornography, ESET UK Research reveals: https://www.eset.com/uk/about/newsroom/press-releases/nearly-two-thirds-of-women-worry-about-being-a-victim-of-deepfake-pornography-eset-uk-research-reveals/

[5] Ibid

[6] Anne Pechenik Gieseke, 2020, "The New Weapon of Choice": Law's Current Inability to Properly Address Deepfake Pornography: https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=4409&context=vlr.

[7] Matt Burgess, 2023, Deepfake Porn is Out of Control: https://www.wired.co.uk/article/deepfake-porn-is-out-of-control.

[8] Ken Tenbarge and Liz Kreutz, 2024, A Beverly Hills middle school is investigating students sharing AI-made nude photos of classmates: https://www.nbcnews.com/tech/misinformation/beverly-vista-hills-middle-school-ai-images-deepfakes-rcna140775; Jason Koebler and Emanuel Maiberg, 2024, What Was She Supposed to Report?: Police Report Shows How a High School Deepfake Nightmare Unfolded: https://www.404media.co/what-was-she-supposed-to-report-police-report-shows-how-a-high-school-deepfake-nightmare-unfolded/.

Question	Your response
	a nude photo of that person. According to analysis by Graphika, in September 2023 alone, 24 million people visited these types of undressing websites.[9] The volume of referral link spam for these services has increased by more than 2,000% on platforms including Reddit and X since the beginning of 2023.' In other words, these sites are using social media to market themselves and social media sites are allowing it. 'Nudifying' apps and websites are increasingly being utilised by children and young people. It was reported in February 2024 that high school students in Seattle, in the United States used easily accessible phone apps to generate supposedly nude images of their classmates.[10] In November 2023, a similar case was reported in New Jersey in the United States,[11] which according to the Guardian Newspaper 'has prompted a civil lawsuit and helped fuel a bipartisan effort in the US Congress to ban the creation and spread of non-consensual deepfake images'.[12] In September 2023, in a small town in Spain, dozens of nude images of schoolgirls had been generated by AI and sent around in a WhatsApp group set up by other schoolchildren. The images circulated for weeks and the teenagers involved have since been sentenced to a year's probation.[13] In November 2023, a group of experts on child abuse and technology warned that children in British schools are using artificial intelligence (AI) to make indecent images of other children.[14] In June 2024, in Australia, a teenage boy was arrested and then released, pending further investigation, after 'fake explicit images, described as "mutilated" and "incredibly graphic", were allegedly circulated on social media using the likenesses of about 50 female students from a private school in regional Victoria.'[15] Just before this incident, again in June 2024, a 15 year old boy was

[9] Graphika, 2023, A Revealing Picture, AI-Generated 'Undressing' Images Move from Niche Pornography Discussion Forums to a Scaled and Monetized Online Business: https://22006778.fs1.hubspotusercontent-na1.net/hubfs/22006778/graphika-report-a-revealing-picture.pdf?utm_campaign=Report%20Eblasts&utm_medium=email&_hsenc=p2ANqtz-9EG_lBVUOc7hmcpXsucFsTlvBSdRWAPnubA4fbHZ4brD-SotX5nLWiU0FlsZ28UCgA5kxWn3KH8Lnfqvn9LrTBga7CKkQ&_hsmi=295744348&utm_content=295744348&utm_source=hs_automation

[10] Jason Koebler and Emanuel Maiberg, 2024, 'What Was She Supposed to Report?:' Police Report Shows How a High School Deepfake Nightmare Unfolded: https://www.404media.co/what-was-she-supposed-to-report-police-report-shows-how-a-high-school-deepfake-nightmare-unfolded/

[11] CBS News, 2023, New Jersey high school students accused of making AI-generated pornographic images of classmates: https://www.cbsnews.com/newyork/news/westfield-high-school-ai-pornographic-images-students/

[12] The Guardian, 2024, Revealed: the names linked to ClothOff, the deepfake pornography app: https://www.theguardian.com/technology/2024/feb/29/clothoff-deepfake-ai-pornography-app-names-linked-revealed

[13] The Guardian, 2024, Spain sentences 15 school children over AI-generated naked images: https://www.theguardian.com/world/article/2024/jul/09/spain-sentences-15-school-children-over-ai-generated-naked-images

[14] BBC, 2023, Children making AI-generated child abuse images, says charity: https://www.bbc.co.uk/news/technology-67521226

[15] The Guardian, 2024, Bacchus Marsh Grammar: schoolboy arrested after 50 female students allegedly targeted in fake explicit AI photos scandal: https://www.theguardian.com/australia-news/article/2024/jun/12/schoolboy-arrested-after-allegedly-posting-fake-explicit-images-of-female-students-ntwnfb

Question	Your response
	expelled for producing explicit images of a female teacher using AI, in Melbourne, Australia.[16]
	The Internet Watch Foundation (2022) reported that over 20,000 AI-generated CSAM images were posted to a dark-net forum in a one-month period, 416 of which were assessed as meeting criminal prohibition standards.[17]
	Further, 'deepfake' pornography sites that are dedicated to the creation and distribution of 'deepfake' pornography are easily accessible online and given they fall within the definition of por-nographic content as per the Act, they are given little attention in the draft guidance.
	Given the enormity of this problem, it is vital that AI-generated pornography and associated 'nudifying' apps are deemed a high priority within the draft guidance.
	Audio-pornography:
	Audio-pornography is increasingly available on user-to-user ser-vices such as Spotify. In 2023, Spotify was added to NCOSE's Dirty Dozen List, an 'annual campaign calling out twelve main-stream entities for facilitating, enabling, and even profiting from sexual abuse and exploitation.'[18]
	In its own Platform Rules, Spotify prohibits content that con-tains sexually explicit material. This, according to Spotify 'in-cludes, but may not be limited to:
	• pornography or visual depictions of genitalia or nudity presented for the purpose of sexual gratification
	• advocating or glorifying sexual themes related to rape, incest, or beastiality.'[19]
	Yet, NCOSE found that 'pornography (including content that normalizes sexual violence, child sexual abuse, and incest) is still easily found on Spotify in the form of thumbnails graphically de-picting sexual activity and nudity, as well as "audio pornogra-phy" (recordings of sex sounds or sexually explicit stories read aloud) and in "video podcasts."'[20]

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[16] Mail Online, 2024, Salesian College scandal: Melbourne student expelled after making explicit AI images of female teacher: https://www.dai-lymail.co.uk/news/article-13517425/Salesian-College-scandal-Melbourne-student-expelled-making-explicit-AI-images-female-teacher.html

[17] The Internet Watch Foundation, 2023, How AI is being abused to create child sexual abuse imagery: https://www.iwf.org.uk/media/q4zll2ya/iwf-ai-csam-report_public-oct23v1.pdf.

[18] NCOSE: https://endsexualexploitation.org/dirtydozenlist-2023/

[19] Spotify: https://www.spotify.com/uk/safetyandprivacy/platform-rules

[20] NCOSE, 2023, PORN FOR EVERYONE: Sexually explicit images, sadistic content, and networks trading child sex abuse material on its platform prove Spotify is out of tune with basic child safety measures and moderation practices: https://endsexualexploitation.org/spotify/

Question	Your response
	Vice and the New York Post have also reported that Spotify is hosting hardcore pornography via thumbnail images, sexually explicit stories and podcasts, as well as audio pornography.[21] As the New York Posts points out, the latter 'includes records of users reading erotica or making sounds that are designed to be sexually arousing.'[22] There can be no confusion or ambiguity, this type of content meets the definition of pornographic content as per Section 236 of the Online Safety Act, which defines pornographic content as 'content of such a nature that it is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal'.
	Spotify is not the only user-to-user service hosting this type of pornography. In a briefing to CEASE by Barnardo's, we were informed of how Barnardo's supported a girl who had access to graphic audio on TikTok, describing violent and abusive sexual acts, including "raping a dead body, and describing what was happening to the organs in the body during that [act]". Barnardo's also informed us that an 11-year-old child was referred to a Barnardo's operated sexual abuse service because they accessed audio pornography on Spotify. This had a catastrophic impact on the child's mental health and wellbeing.[23]

Draft Guidance on Content Harmful to Children (Section 8)

Question	Your response
12. Do you agree with our proposed approach, including the level of specificity of examples given and the proposal to include contextual information for services to consider? 13. Do you have further evidence that can support the guidance provided on different kinds of content harmful to children? 14. For each of the harms discussed, are there additional categories of content that Ofcom a) should consider to be harmful or	**Confidential? – N** Question 12: Regarding Section 8.2 Guidance on Pornographic Content, we agree with the proposed approach in the most part. However, in Table 8.2.3: Descriptions and examples of content that are not pornographic (page 300), CEASE is concerned with the inclusion of 'sexually suggestive autonomous sensory meridian response (ASMR) video streams with sexually suggestive sounds but without nudity' in the section on 'Glamour content whose primary purpose falls short of sexual arousal, but may have suggestive intentions.' As outlined in the Ofcom Guidance, Section 236 of the Act defines pornographic content as 'content of such a nature that it

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[21] Vice, 2022, What's Going On With the Hardcore Porn Images on Spotify?: https://www.vice.com/en/article/jgpm94/whats-going-on-with-the-hardcore-porn-images-on-spotify and New York Post, 2022, Hardcore porn keeps showing up on Spotify even though it's not allowed: https://nypost.com/2022/07/26/porn-keeps-showing-up-on-spotify-even-though-its-not-allowed/

[22] New York Post, 2022, Hardcore porn keeps showing up on Spotify even though it's not allowed: https://nypost.com/2022/07/26/porn-keeps-showing-up-on-spotify-even-though-its-not-allowed/

[23] Stories shared personally to CEASE staff with permission to include in this submission.

Question	Your response
b) consider not to be harmful or c) where our current proposals should be reconsidered?	is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal'. In the case of (ASMR) video streams with sexually suggestive sounds, even without the inclusion of nudity this type of content is clearly produced solely or principally for the purpose of sexual arousal. As highlighted and evidenced above, given the high rates of audio pornography on music streaming platforms including Spotify, as well as others, it is deeply concerning that Ofcom has deemed sexually suggestive autonomous sensory meridian response (ASMR) video streams as not meeting the definition of pornographic content, as defined by the Act. What indeed is their purpose, if not to sexually arouse? It is incumbent upon Ofcom, as per their mandated duty under the Online Safety Act to ensure that children are prevented from accessing pornographic content on all user-to-user services. This should include sexually suggestive autonomous sensory meridian response (ASMR) video streams with sexually suggestive sounds. Ofcom's Guidance should be updated to rectify this and ensure that children are protected from accessing this harmful pornographic material. It is also worth noting that Table 8.2.2: Descriptions and examples of pornographic content that is harmful to children (page 299), does not include a specific point on AI-generated pornography such as 'deepfake' pornography. While this would legitimately fall under 'Explicit depictions of sexual activity' - given the evidence we have outlined in the above section relating to Volume 3: The causes and impacts of online harm to children: Draft Children's Register of Risk (Section 7), it is remiss of Ofcom to specifically name it in this Section. We therefore recommend this is included in this part of the draft guidance.
Volume 4: How should services assess the risk of online harms? **Governance and Accountability (Section 11)**	
15. Do you agree with the proposed governance measures to be included in the Children's Safety Codes? a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.	**Confidential? – N** Question 12: Overall, CEASE is concerned that Ofcom is prioritising the technology industry over the protection of children, particularly as it relates to the cost of compliance. Again, as per the Children's Coalition's Joint Statement on the Codes of Practice, of which CEASE is a signatory, Ofcom must 'ensure it is implementing a regulatory regime which prioritises children's safety and can

Question	Your response
b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response. 16. Do you agree with our assumption that the proposed governance measures for Children's Safety Codes could be implemented through the same process as the equivalent draft Illegal Content Codes?	grapple with the full scale of risk to children online. Ofcom must go further and use its full powers to demand bold and meaningful change from technology companies.' Further, despite the very clear intent of the Act, and indeed the intent of Ofcom's guidance, CEASE is concerned that it is not made clear enough that user-to-user services that host pornographic content either as their main content or otherwise part of it, must have highly effective age assurance, regardless of size, scope or number of users. Proportionality as it relates to size or cost is irrelevant regarding pornography. As mandated by Parliament, the risk of pornography to children is the only consideration when it comes to a service's obligation to implement highly effective age assurance. Similarly, for services that prohibit pornography in their terms of service, it must be made abundantly clear that they are obligated to ensure their terms of service are robustly implemented and complied with. Thus far, services of this kind have abjectly failed in this regard. It is incumbent upon Ofcom to specifically outline in the guidance how this will be regulated and enforced going forward.
Children's Risk Assessment Guidance and Children's Risk Profiles' (Section 12)	
17. What do you think about our proposals in relation to the Children's Risk Assessment Guidance? a) Please provide underlying arguments and evidence of efficacy or risks that support your view. 18. What do you think about our proposals in relation to the Children's Risk Profiles for Content Harmful to Children? a) Please provide underlying arguments and evidence of efficacy or risks that support your view. Specifically, we welcome evidence from regulated services on the following: 19. Do you think the four-step risk assessment process and the Children's	Confidential? – Y / N N/A

Question	Your response
Risk Profiles are useful models to help services understand the risks that their services pose to children and comply with their child risk assessment obligations under the Act?	
20. Are there any specific aspects of the children's risk assessment duties that you consider need additional guidance beyond what we have proposed in our draft?	
21. Are the Children's Risk Profiles sufficiently clear and do you think the information provided on risk factors will help you understand the risks on your service?	
a) If you have comments or input related to the links between different kinds of content harmful to children and risk factors, please refer to Volume 3: Causes and Impacts of Harms to Children Online which includes the draft Children's Register of Risks.	

Volume 5 – What should services do to mitigate the risk of online harms

Our proposals for the Children's Safety Codes (Section 13)

Question	Your response
Proposed measures 22. Do you agree with our proposed package of measures for the first Children's Safety Codes? a) If not, please explain why. **Evidence gathering for future work.** 23. Do you currently employ measures or have additional evidence in the areas we have set out for future consideration? a) If so, please provide evidence of the impact, effectiveness and cost of such measures, including any results from trialling or testing of measures.	Confidential? – Y / N N/A

Question	Your response
24. Are there other areas in which we should consider potential future measures for the Children's Safety Codes? a) If so, please explain why and provide supporting evidence.	

Developing the Children's Safety Codes: Our framework (Section 14)	
25. Do you agree with our approach to developing the proposed measures for the Children's Safety Codes? a) If not, please explain why.	Confidential? – Y / N N/A
26. Do you agree with our approach and proposed changes to the draft Illegal Content Codes to further protect children and accommodate for potential synergies in how systems and processes manage both content harmful to children and illegal content? a) Please explain your views.	
27. Do you agree that most measures should apply to services that are either large services or smaller services that present a medium or high level of risk to children?	
28. Do you agree with our definition of 'large' and with how we apply this in our recommendations?	
29. Do you agree with our definition of 'multi-risk' and with how we apply this in our recommendations?	

30. Do you agree with the proposed measures that we recommend for all services, even those that are small and low-risk?	

Age assurance measures (Section 15)

31. Do you agree with our proposal to recommend the use of highly effective age assurance to support Measures AA1-6? Please provide any information or evidence to support your views. a) Are there any cases in which HEAA may not be appropriate and proportionate? b) In this case, are there alternative approaches to age assurance which would be better suited? 32. Do you agree with the scope of the services captured by AA1-6? 33. Do you have any information or evidence on different ways that services could use highly effective age assurance to meet the outcome that children are prevented from encountering identified PPC, or protected from encoun-	**Confidential? – N** Question 31: We agree that it is right to ensure consistency in the approach to age assurance for pornographic content, whether this is in the context of preventing children from accessing pornographic content, a form of PPC, for the purposes of the Part 3 children's safety duties or under the obligations set out in Part 5. However, as CEASE set out in our response to 'Guidance for service providers publishing pornographic content' pertaining to part 5 of the Act, we have serious concerns with how Ofcom is approaching age assurance in the round. While we do not wish to have to repeat the concerns raised in our response to the latter, we must note that we remain concerned with Ofcom's approach to age assurance, specifically the lack of a clear definition of age assurance. The Online Safety Act mandates that any service that hosts pornographic content must implement age verification to prevent children from accessing such content, and that the 'age verification or age estimation must be of such a kind, and used in such a way, that it is highly effective at correctly determining whether or not a particular user is a child.' When introducing this amendment to the OSA in the House of Lords the Minister stated: "[content providers] will need to be highly effective at correctly determining whether a particular user is a child. This new bar will achieve the intended outcome behind the amendments which we looked at in Committee, seeking to introduce a standard of "beyond reasonable doubt" for age assurance for pornography, while avoiding the risk of legal challenge or inadvertent loopholes."[24] The mandate to Ofcom, by Parliament was clear; 'beyond reasonable doubt' is an outcome focused test in criminal law - a jury must be satisfied, to a high degree of certainty, that the outcome of the case should result in the guilt of the accused. In terms of age verification, beyond reasonable doubt means, a high degree of certainty, that no children are accessing

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[24] Hansard HL Debate vol 831 no 189 col 1430 6th July 2023:
https://hansard.parliament.uk/lords/2023-07-06/debates/35CCD1845828-4C47-AA19-D19D8AF44938/OnlineSafetyBill

tering identified PC under Measures AA3 and AA4, respectively? 34. Do you have any comments on our assessment of the implications of the proposed Measures AA1-6 on children, adults or services? a) Please provide any supporting information or evidence in support of your views. 35. Do you have any information or evidence on other ways that services could consider different age groups when using age assurance to protect children in age groups judged to be at risk of harm from encountering PC?	pornographic content online. It is clear Parliament was seeking an outcome-based measure for age verification, something that CEASE, other concerned charities and parliamentarians had long campaigned for. Yet, as in Ofcom's Draft Guidance on Age Assurance and other Part 5 Duties for Service Providers Publishing Pornographic Content on Online Services,[25] the current draft guidance on highly effective age assurance, as outlined in Annex 10 equally has no clear definition of 'highly effective' age verification. We acknowledge that in Annex 10, Ofcom asserts that the criteria it has outlined that services must meet to reach age assurance standards, such as technical accuracy, robustness, reliability and fairness, counts as a definition of highly effective age assurance. However, we do not believe that it does. We agree that these criteria in and of themselves are not without merit, but the question remains as to how Ofcom will reliably judge and therefore enforce this guidance. There is still no set standard for content providers to attain. If no standard is set by the guidance as to what meets the statutory bar of 'highly effective' then there is nothing by which to judge if the content provider has met their obligations. Instead, Ofcom focuses on the method and process of age verification, which while important, is not a definitive way of ensuring that services are implementing highly effective age verification and thus preventing children from accessing pornography. Considering that age verification technology is now of such a standard that age verification providers are confident of its accuracy to 99% for identifying those under 16 years and 95% for 16-18 years, it is unclear why Ofcom are so reluctant to define 'highly effective' age verification, particularly when they have been mandated by Parliament to do so. For Ofcom's Guidance and the Online Safety Act to be meaningfully implemented and enforced, the term 'highly effective' needs to be defined and a percentage applied to the age assurance method whereby a content provider can prove that the method and process employed prevents 99% of children accessing the content. Further, CEASE remains confused as to why Ofcom has set such a high evidentiary threshold for age assurance technology. This guidance is at odds with the age assurance industry which is by all accounts moving much faster than Ofcom. Yoti in their 2023 White Paper on facial age estimation found that their product was 99.93% effective at correctly determining that 13-17 year olds were under 25.[26] The 2022 White Paper found an accuracy of 99.65 for age estimation under 23.[27] This percentage effectiveness is clearly in line with the recommendation in annex 10 (p11) that a challenge 25 approach

[25] Ofcom, 2023, Draft Guidance on Age Assurance and other Part 5 Duties for Service Providers Publishing Pornographic Content on Online Services: https://www.ofcom.org.uk/__data/assets/pdf_file/0017/272600/consultation-part-5-guidance.pdf

[26] YOTI, 2023, Yoti Age Estimation White Paper: https://www.yoti.com/wp-content/uploads/Yoti-Age-Estimation-White-Paper-March-2023.pdf

[27] YOTI, 2022, Yoti Age Estimation White Paper: https://www.yoti.com/wp-content/uploads/Yoti-Age-Estimation-White-Paper-May-2022.pdf

should be considered. Therefore, Ofcom could determine that highly effective means age estimation determining that a person is older than 25 or 23 to a 99% accuracy, with other methods of age verification being deployed for persons who fail the age estimation test. This type of approach would provide greater clarity/objectivity and would be in alignment with the wishes of Parliament.

Further, as Ofcom is aware, international standards for age assurance are in the process of being finalised by the Age Check Certification Scheme[28] which will likely be based on numerical accuracy.

Individual European countries are also making huge strides in how they ensure highly effective age assurance. Spain for example, will issue their 'porn passport' which requires a person to verify their age on an app, the app then authorises 30 sessions over the period of a month on pornographic websites.[29] Spain's new passport foreshadows an EU wide scheme due to be rolled out by October 2027.[30]

CEASE urges Ofcom to investigate this and/or other digital ID schemes as viable options in ensuring highly effective age assurance. For example, a UK wide digital ID scheme could be based on the existing Scottish ID scheme, which is available, to young people aged 11 to 26, free of charge, and is accepted as proof of age for the purchase of restricted goods.[31] Should this require a broadening or creating of legislation, then CEASE highly recommends that Ofcom brings this to the new Secretary of State as a matter of urgency. Further, such an ID would ensure that children can only access content or apps that are appropriate for their age, as would be verified by their digital ID.

CEASE also takes this opportunity to remind Ofcom that pornography sites are commercially incentivised to resist or ignore age verification, since their business model depends on maximising the number of visitors to the site.[32] The BBFC found that pornography is specifically targeted at children. Children aged six to 12 are disproportionately exposed to pornography sites hosting content featuring cartoons likely to appeal to children, such as superheroes and Disney [33]

Further, pornography companies are already fighting age assurance legislation across different jurisdictions. When the age verification law was introduced in France, Pornhub, YouPorn and RedTube (all owned by Aylo),

[28] Age Check Certification Scheme: https://accscheme.com/

[29] The Olive Press, 2024, Spain's new porn passport is coming this summer: https://www.theolivepress.es/spain-news/2024/07/05/spains-new-porn-passport-is-coming-this-summer-heavy-users-to-receive-alerts-but-will-they-really-be-cut-off-after-30-views/

[30] The Economic Times, 2024, Porn Passport: Spain launches new mobile application to access online pornography. Here's what it is and how it works: https://economictimes.indiatimes.com/news/new-updates/porn-passport-spain-launches-new-mobile-application-to-access-online-pornography-heres-what-it-is-and-how-it-works/articleshow/111532570.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

[31] Young Scot Online, 2024, Using Your Young Scot National Entitlement Card as Proof of Age: https://young.scot/get-informed/using-your-young-scot-card-as-proof-of-age/

[32] CEASE, 2021, Expose Big Porn: https://cease.org.uk/wp-content/uploads/2021/07/210607_CEASE_Expose_Big_Porn_Report.pdf

[33] BBFC, 2022, New BBFC research reveals children are more exposed to sites specialising in non-photographic pornography, compared to adults: https://www.bbfc.co.uk/about-us/news/new-bbfc-research-reveals-children-are-more-exposed-to-sites-specialising-in-non-photographic-pornography-compared-to-adults

	challenged the law in two of France's highest courts, using freedom of expression as an argument.[34] They lost, but it highlights how far the pornography industry will go to avoid regulation. Similarly, Aylo are fighting the age verification laws in several states across the United States.[35]
Content moderation U2U (Section 16)	
36. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views. 37. Do you agree with the proposed addition of Measure 4G to the Illegal Content Codes? a) Please provide any arguments and supporting evidence.	**Confidential? – N** Question 36: CEASE is concerned that the draft guidance for content moderation as set out in Section 16 and the Codes generally, rely heavily on technology companies enforcing their own terms of service and moderating individual pieces of content. It is unclear: 1) How Ofcom intends on enforcing these measures so that they have real life impact for the safety of children online. 2) How Ofcom can be assured that technology companies will enforce their own terms of service in the future given the immense amount of evidence that they do not at the moment, including Ofcom's own evidence. And: 3) Why, without any real regulatory incentive, would a technology company undermine its own business model by enforcing its own terms of service? As we saw from the appearance of Meta and others before the US Senate child safety hearing, these companies wilfully prioritise profit over child protection. Ofcom is obligated by Parliament to ensure that children's safety is prioritised, as outlined in the Guidance. This means ensuring that service providers are prioritising proactive and preventative safety by design measures. In its current form, the draft Guidance and Codes do not require services to design their platforms so that children's safety is embedded from the start and the focus is on harm prevention. There is a strong risk that children will continue to encounter risks and bear the burden of protecting themselves. The Codes must have a greater focus on preventing and disrupting harm at an earlier stage – for example, using proactive technologies to detect illegal and harmful material, and creating measures which disrupt perpetrator behaviour.

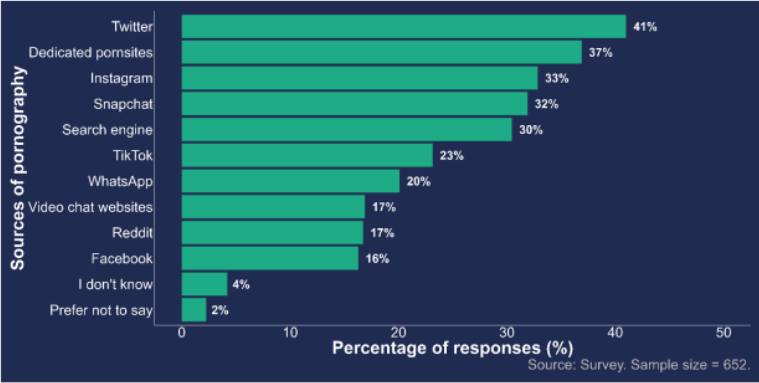[34] Numerama, 2023, Porn sites are powerless in court to prevent age control in France: https://www.numerama.com/tech/1230502-les-sites-porno-sont-impuissants-en-justice-pour-empecher-le-controle-de-lage-en-france.html

[35] Tech Crunch, 2023, Pornhub blocks access in Mississippi, Virginia and Utah amid changing laws: https://techcrunch.com/2023/07/03/pornhub-blocks-access-in-mississippi-virginia-and-utah-amid-changing-laws/

CEASE is particularly concerned with how Ofcom will ensure that children are protected from encountering pornographic content on user-to-user sites that prohibit such material in their terms of service, given the 2023 research from the Children's Commissioner for England which found children regularly access pornography on social media sites.[36] See image below.

While we are supportive of user-to-user services such as X (formally Twitter) and others that allow pornographic content on their platform as per their terms of service being subject to age assurance as per the Act and Ofcom proposed measure AA3, Section 15, page 35, we are concerned as to how Ofcom will ensure that other user-to-user services such as those outlined below will proactively protect children from accessing pornographic content.

Figure 2. Percentage of respondents who selected the top 10 ways of viewing pornography. Includes only those who had ever viewed online pornography.

Sources of pornography	Percentage of responses (%)
Twitter	41%
Dedicated pornsites	37%
Instagram	33%
Snapchat	32%
Search engine	30%
TikTok	23%
WhatsApp	20%
Video chat websites	17%
Reddit	17%
Facebook	16%
I don't know	4%
Prefer not to say	2%

Source: Survey. Sample size = 652.

Search moderation (Section 17)	
38. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views. 39. Are there additional steps that services take to protect children from the harms set out in the Act? a) If so, how effective are they?	Confidential? – Y / N N/A

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[36] Children's Commissioner for England, 2023, 'A lot of it is actually just abuse' Young people and pornography: https://assets.childrenscommissioner.gov.uk/wpuploads/2023/02/cc-a-lot-of-it-is-actually-just-abuse-young-people-and-pornography-updated.pdf

40. Regarding Measure SM2, do you agree that it is proportionate to preclude users believed to be a child from turning the safe search settings off?	1
The use of Generative AI (GenAI), see Introduction to Volume 5, to facilitate search is an emerging development, which may include where search services have integrated GenAI into their functionalities, as well as where standalone GenAI services perform search functions. There is currently limited evidence on how the use of GenAI in search services may affect the implementation of the safety measures as set out in this code. We welcome further evidence from stakeholders on the following questions and please provider arguments and evidence to support your views:	
41. Do you consider that it is technically feasible to apply the proposed code measures in respect of GenAI functionalities which are likely to perform or be integrated into search functions?	
42. What additional search moderation	

measures might be applicable where GenAI performs or is integrated into search functions?	2

User reporting and complaints (Section 18)	
43. Do you agree with the proposed user reporting measures to be included in the draft Children's Safety Codes? a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence. b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response. 44. Do you agree with our proposals to apply each of Measures UR2 (e) and UR3 (b) to all services likely to be accessed by children for all types of complaints? a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence. b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response. 45. Do you agree with the inclusion of the proposed changes to Measures UR2 and UR3 in the Illegal Content Codes (Measures 5B and 5C)?	Confidential? – Y / N N/A

a) Please provide any arguments and supporting evidence.	2

Terms of service and publicly available statements (Section 19)	
46. Do you agree with the proposed Terms of Service / Publicly Available Statements measures to be included in the Children's Safety Codes? a) Please confirm which proposed measures your views relate to and provide any arguments and supporting evidence. b) If you responded to our illegal harms consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response. 47. Can you identify any further characteristics that may improve the clarity and accessibility of terms and statements for children? 48. Do you agree with the proposed addition of Measure 6AA to the Illegal Content Codes? a) Please provide any arguments and supporting evidence.	Confidential? – Y / N N/A
Recommender systems (Section 20)	
49. Do you agree with the proposed recommender systems measures to be included in the Children's Safety Codes? a) Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence. b) If you responded to our illegal harms consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.	Confidential? – Y / N N/A

50. Are there any intervention points in the design of recommender systems that we have not considered here that could effectively prevent children from being recommended primary priority content and protect children from encountering priority and non-designated content? 51. Is there any evidence that suggests recommender systems are a risk factor associated with bullying? If so, please provide this in response to Measures RS2 and RS3 proposed in this chapter. 52. We plan to include in our RS2 and RS3, that services limit the prominence of content that we are proposing to be classified as non-designated content (NDC), namely depressive content and body image content. This is subject to our consultation on the classification of these content categories as NDC. Do you agree with this proposal? Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3. • Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3.	2
User support (Section 21)	
53. Do you agree with the proposed user support measures to be included in the Children's Safety Codes? a) Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence. b) If you responded to our Illegal harms consultation and this is relevant to your response here, please signpost	Confidential? – Y / N N/A

to the relevant parts of your prior response.	2

Search features, functionalities and user support (Section 22)

54. Do you agree with our proposals? Please provide underlying arguments and evidence to support your views. 55. Do you have additional evidence relating to children's use of search services and the impact of search functionalities on children's behaviour? 56. Are there additional steps that you take to protect children from harms as set out in the Act? a) If so, how effective are they? As referenced in the Overview of Codes, Section 13 and Section 17, the use of GenAI to facilitate search is an emerging development and there is currently limited evidence on how the use of GenAI in search services may affect the implementation of the safety measures as set out in this section. We welcome further evidence from stakeholders on the following questions and please provide arguments and evidence to support your views: 57. Do you consider that it is technically feasible to apply the proposed codes measures in respect of GenAI functionalities which are likely to perform or be integrated into search functions? Please provide arguments and evidence to support your views.	Confidential? – Y / N N/A

Combined Impact Assessment (Section 23)	
58. Do you agree that our package of proposed measures is proportionate, taking into account the impact on children's safety online as well as the implications on different kinds of services?	Confidential? – Y / N N/A
Statutory tests (Section 24)	
59. Do you agree that our proposals, in particular our proposed recommendations for the draft Children's Safety Codes, are appropriate in the light of the matters to which we must have regard? a) If not, please explain why.	Confidential? – Y / N N/A
Annexes **Impact Assessments (Annex A14)**	
60. In relation to our equality impact assessment, do you agree that some of our proposals would have a positive impact on certain groups? 61. In relation to our Welsh language assessment, do you agree that our proposals are likely to have positive, or more positive impacts on opportunities to use Welsh and treating Welsh no less favourably than English? a) If you disagree, please explain why, including how you consider these proposals could be revised to have positive effects or more positive effects, or no adverse effects or fewer adverse effects on opportunities to use Welsh and treating Welsh no less favourably than English.	Confidential? – Y / N N/A