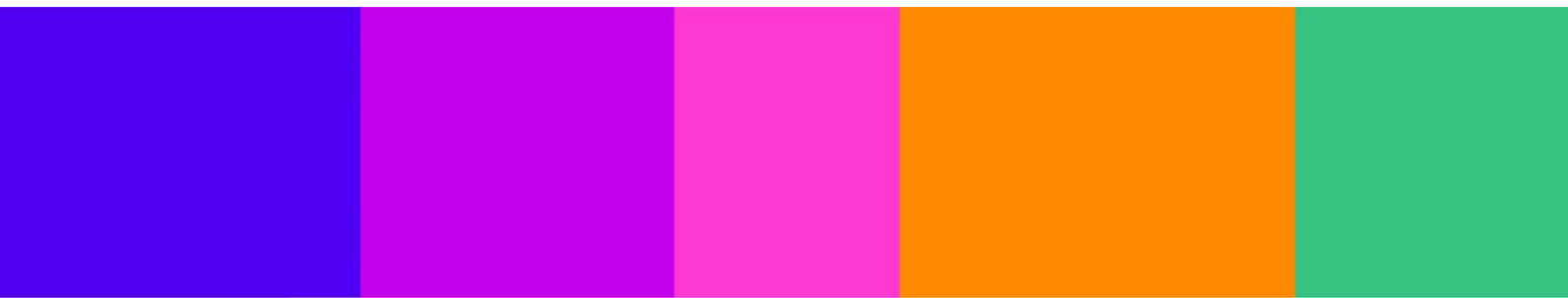




Consultation response form

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

Consultation title	Consultation: Protecting children from harms online
Organisation name	ERA, the digital entertainment and retail association



Your response

Question	Your response
<p>Volume 2: Identifying the services children are using Children’s Access Assessments (Section 4).</p>	
<p>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.</p> <p>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?</p> <p>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?</p> <p>3. Our proposed approach to the process for children’s access assessments?</p>	<p>Confidential? – Y/ N / In part</p> <p>1. The Act already requires services to undertake assessments of child access to services and steps to ensure that content potentially unsuitable for child access is assessed and controlled by means appropriate to the service to restrict access.</p> <p>ERA members welcome protections and customer choice for the safety and healthy experiences of all users. As such, high standards of content quality and user control are broadly provided and policies and controls are transparently provided.</p> <p>Services already operate means of assessing suitability of content, age verification, means for parents to restrict content potentially unsuitable for child access, moderation and reporting functions.</p> <p>Examples include Family subscription bundle accounts (including content controls for parental choice), visible and filterable tagging of age-appropriate and explicit content, alerts of sensitive content, parental lock and parental approval to access content.</p> <p>These controls are necessarily and constantly reviewed by services, which is essential given the volume and fast pace of new content provided to entertainment services to offer to users. It is essential that services expert in their particular content field and service are able to operate, adapt and deliver controls suitable for their particular content and service and appropriate to the users of that particular service, which the service understands best.</p> <p>2. ‘Significant’ is not clearly defined either by number, proportion or time.</p> <p>3. We would agree that assessments should be done by and appropriate to the particular service.</p>

Question	Your response
<p>Volume 3: The causes and impacts of online harm to children</p> <p>Draft Children’s Register of Risk (Section 7)</p>	
<p>Proposed approach:</p> <p>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.</p> <p>a. Do you think we have missed anything important in our analysis?</p> <p>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.</p> <p>6. Do you have any views on the age groups we recommended for assessing risk by age? Please provide evidence to support your answer.</p> <p>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.</p> <p>Evidence gathering for future work:</p> <p>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)?</p> <p>9. Have you identified risks to children from GenAI content or applications on U2U or Search services?</p>	<p>Confidential? – Y / N <i>In part and on a voluntary, proportionate and service decided basis</i></p> <p>4. Entertainment services broadly already and transparently comply with the 12, general principles for categories of content with potential to cause harm including those explicitly encouraging suicide, self harm, dangerous actions or bullying on racial, sexual or other characteristic grounds.</p> <p>a)Ofcom does not provide measurement for ‘significant’, ‘material’ or ‘appreciable number’ for the harm considered of such content.</p> <p>4.a) and 5. We are concerned that OFCOM may not have fully considered the difficulty of assessing creative content, particularly music and fictional audio-visual content, which is essentially subjective.</p> <p>Viewers and listeners of fictional audio-visual content and listeners of music, appreciate and interpret content personally, individually and subject to environmental and emotional factors. These factors may change and therefore may change the interpretation of the content, to the same individual and for other, individual users.</p> <p>Services operating fictional audio-visual creative content and music are most skilled and experienced in assessing their content field and users.</p> <p>Services are already subject to and actively surpassing existing frameworks for rating and controlling content according to age suitability and other suitability assessments (such as explicit lyrics, drug use or other restricted measures). Beyond definitive controls such as these, the interpretation and therefore impact of creative content cannot be consistently or universally assessed given the essential subjectivity of user experience and interpretation. Subsequently, services of such creative content could not assess the link between that content and ‘significant’ harm to an “appreciable number’ of children in the United Kingdom” (3.1)</p> <p>Users and parents of users are provided controls to manage their own viewing, search and discovery of</p>

Question	Your response
<p>a) Please Provide any information about any risks identified</p> <p>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:</p> <p>a) (i) specific examples of body image or depressive content linked to significant harms to children,</p> <p>b. (ii) evidence distinguishing body image or depressive content from existing categories of priority or primary priority content.</p> <p>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.</p>	<p>creative content, according to subjective tastes and preferences.</p> <p>We are further concerned that subject controls on creative content will negatively impact creators in limiting types of content from accessing the consumer market. Further that subjective controls may negatively access user access to a rich variety of content with appeal to a diversity of users and user preferences.</p> <p>Safety controls should not stray into unnecessary censorship</p> <p>Controls should avoid hampering creative expression and creative content, including by influencing creators who may consider whether or not their creativity will be restricted on subjective grounds.</p> <p>6. Services already operate controls for minors and adult users. We prefer to maintain parental control beyond the established criteria.</p> <p>Evidencing examples of existing and voluntary service policies, support services, transparency and controls:</p> <p>Google / YouTube Policies</p> <p>Including:</p> <p>Child Safety policy</p> <p>Suicide, Self-Harm and eating disorders policy</p> <p>Amazon Security and Privacy / Legal Policies</p> <p>Including:</p> <p>Children’s Privacy Notice</p> <p>Parental Controls on Prime Video</p> <p>Amazon Music Explicit filter control</p> <p>Spotify Guide for Parents and Guardians</p> <p>Spotify Explicit Content policy and controls</p> <p>Spotify Platform Rules</p> <p>Spotify for podcasters community guidelines</p> <p>Sky Parental settings</p>

Question	Your response
Draft Guidance on Content Harmful to Children (Section 8)	
<p>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?</p> <p>13. Do you have further evidence that can support the guidance provided on different kinds of content harmful to children?</p> <p>14. For each of the harms discussed, are there additional categories of content that Ofcom</p> <p>a) should consider to be harmful or</p> <p>b) consider not to be harmful or</p> <p>c) where our current proposals should be reconsidered?</p>	<p>Confidential? – Y / N</p> <p>Please see answers 1-6</p>
Volume 4: How should services assess the risk of online harms? Governance and Accountability (Section 11)	
<p>15. Do you agree with the proposed governance measures to be included in the Children’s Safety Codes?</p> <p>a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.</p> <p>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.</p> <p>16. Do you agree with our assumption that the proposed governance measures for Children's Safety Codes could be implemented through the</p>	<p>Confidential? – Y / N – <i>Given voluntary provision and parental control.</i></p> <p>15. Entertainment services already comply with the Children’s Safety Codes proposals in the voluntary and proportionate provision of controls to:</p> <ul style="list-style-type: none"> • Prevent children of any age from encountering pornography, suicide, self-harm, and eating disorder content (Primary Priority Content) • Protect children in age groups judged to be at risk of harm from other harmful content including but not limited to bullying content, content which depicts serious violence or challenges and stunts (Priority Content) from encountering it. <p>And search services already “take proportionate measures to effectively”:</p> <ul style="list-style-type: none"> • Minimise the risk of children of any age encountering the most harmful search

Question	Your response
<p>same process as the equivalent draft Illegal Content Codes?</p>	<p>content to children namely pornography, suicide, self-harm, and eating disorder content (Primary Priority Content),</p> <ul style="list-style-type: none"> • Minimise the risk of children in age groups judged to be at risk of harm from other harmful content including but not limited to bullying content, content which depicts serious violence or challenges and stunts (Priority Content) from encountering it. <p>See examples above.</p> <p>16. We do not believe that further action is necessary as Entertainment content and search services are already and voluntarily compliant with proposals of the Codes in that they already:</p> <ul style="list-style-type: none"> • take proportionate steps to minimise the risk of [your] users encountering illegal content via search results; • mitigate and manage the risks identified in [your] illegal content risk assessment; and • explain how (to) [you'll] do this in a publicly available statement. • decide (for themselves) how to meet the specific legal duties.. <p>And provide:</p> <p>"..a range of measures in areas including content moderation, complaints, user access, design features to support users, and the governance and management of online safety risks."</p> <p>See examples above.</p>
<p>Children's Risk Assessment Guidance and Children's Risk Profiles' (Section 12)</p>	
<p>17. What do you think about our proposals in relation to the Children's Risk Assessment Guidance?</p> <p>a) Please provide underlying arguments and evidence of efficacy or risks that support your view.</p> <p>18. What do you think about our proposals in relation to the Children's</p>	<p>Confidential? – Y / N</p>

Question	Your response
<p>Risk Profiles for Content Harmful to Children?</p> <p>a) Please provide underlying arguments and evidence of efficacy or risks that support your view.</p> <p>Specifically, we welcome evidence from regulated services on the following:</p> <p>19. Do you think the four-step risk assessment process and the Children’s 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?</p> <p>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?</p> <p>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?</p> <p>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.</p>	
<p>Volume 5 – What should services do to mitigate the risk of online harms</p> <p>Our proposals for the Children’s Safety Codes (Section 13)</p>	

Question	Your response
<p>Proposed measures</p> <p>22. Do you agree with our proposed package of measures for the first Children’s Safety Codes?</p> <p>a) If not, please explain why.</p> <p>Evidence gathering for future work.</p> <p>23. Do you currently employ measures or have additional evidence in the areas we have set out for future consideration?</p> <p>a) If so, please provide evidence of the impact, effectiveness and cost of such measures, including any results from trialling or testing of measures.</p> <p>24. Are there other areas in which we should consider potential future measures for the Children’s Safety Codes?</p> <p>a) If so, please explain why and provide supporting evidence.</p>	<p>Confidential? – Y / N</p>

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.

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?

Confidential? – Y / N

Please see answer to 4.a) and 5. Above.

In light of the existing efforts and controls already provided by entertainment services and the risks to creators, creative expression and consumer access of further, fixed controls to broadly subjective content, we urge caution on prescriptive measures affecting different creative content services with different audiences.

Similarly, risks across age groups and inclusive of very different kinds of search and content services may homogenise different user experiences (between intentional and subjective, physical and creative/emotional) and be hard to prescribe externally. We believe that controls are best decided and operated by the services themselves and by parents (to be appropriate and proportionate as OFCOM requires).

We would also urge caution for OFCOM to apply onerous requirements in terms of fixed technical cost and complexity to smaller services to avoid hampering innovation and niche, new and specialist services.

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.

Confidential? – Y / N

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 encountering 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?

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? – Y / N

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?

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?

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 provide 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?

Confidential? – Y / N

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)?

a) Please provide any arguments and supporting evidence.

Confidential? – Y / N

Please see examples and resources above.

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

Please see examples above.

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

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.

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

Please see examples above.

<p>to the relevant parts of your prior response.</p>	
<p>Search features, functionalities and user support (Section 22)</p>	
<p>54. Do you agree with our proposals? Please provide underlying arguments and evidence to support your views.</p> <p>55. Do you have additional evidence relating to children’s use of search services and the impact of search functionalities on children’s behaviour?</p> <p>56. Are there additional steps that you take to protect children from harms as set out in the Act?</p> <p>a) If so, how effective are they?</p> <p>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:</p> <p>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.</p>	<p>Confidential? – Y / N</p>

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

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

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

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