

OFCOM SECOND PHASE OF ONLINE SAFETY REGULATION CALL FOR EVIDENCE SUBMISSION

Introduction to CARE

1. CARE (Christian Action Research and Education) is a well-established mainstream Christian charity providing resources and helping to bring Christian insight and experience to matters of public policy and practical caring initiatives. CARE advised MPs and Peers during the debates on Part 3 of the Digital Economy Act 2017 – the proposals for age verification of commercial pornographic websites and continues to provide support to MPs and Peers during the passage of the Online Safety Bill.
2. We have provided answers to questions 4, 6, 17 and 25, which are the areas covered in the call for evidence within our competence and expertise. Our responses to these questions are not confidential and can be published by Ofcom.

Question 4: How can services ensure that children cannot access a service, or a part of it?

3. CARE is particularly concerned about children's access to pornographic content. This issue has already been considered and was legislated for in 2017 through section 14 of the Digital Economy Act (DEA), which the Government decided not to implement. Under that provision all commercial producers of pornographic content were required to ensure that children are not normally allowed to access content on its platform.¹ The Government announced in July 2017 that this legislative requirement would be delivered by age verification technology, CARE contends that age verification remains the best way to protect children from the harms of pornography, particularly as technology has advanced since the passage of the DEA.
4. Technology exists that would ensure all websites or social media that host pornographic content can utilise digital solutions to age verify users. Age verification is already used in other parts of the EU and the USA.^{2,3} The Online Safety Bill must ensure that age verification to access pornographic content is consistent across all types of content (social media, user-to-user services and commercial pornography). Regulation must specify an outcome-based standard for age checks to prevent sites applying weak, inaccurate, untested age estimation algorithms that will allow many underage users access to their content. Technological solutions must be robust and not compromise privacy and data.
5. **Recommendation: Age verification technology is available; and the most robust age verification should be utilised in the UK to ensure persons under the age of 18 are not able to access harmful content.**

¹ <https://www.legislation.gov.uk/ukpga/2017/30/part/3/enacted>

² Polina Richard, New York Post, 9th January 2023 <https://nypost.com/2023/01/09/louisiana-law-now-requires-id-verification-to-access-pornographic-sites/>

³ Kayala Lauren, Politico, 15th February 2023 <https://www.politico.eu/article/no-porn-no-instagram-for-kids-france-doubles-down-age-verification-emmanuel-macrons-nick-clegg/>

Question 6: Can you provide any evidence relating to the presence of content that is harmful to children on user-to-user and search services?

6. In a recent report the English Children’s Commissioner highlighted the harm to children from unfettered access to pornographic material online. She noted *“young people are frequently exposed to violent pornography, depicting coercive, degrading or pain-inducing sex acts; 79% had encountered violent pornography before the age of 18. Young people expressed concern about the implications of violent pornography on their understanding of the difference between sexual pleasure and harm. Indeed, this report finds that frequent users of pornography are more likely to engage in physically aggressive sex acts.”* The harms faced by children online are not simply the modern day equivalent of ‘top-shelf’ magazines. What is available, without any age checks or verification, is more violent than what is available in offline platforms and leads to real world consequences and violence towards children. The Children’s Commissioner noted with deep concern that the proliferation of pornography has led to *“the normalisation of sexual violence in online pornography, and the role that this plays in shaping children’s understanding of sex and relationships!”* This is not just an issue for user-to-user sites or commercial pornography, the Children’s Commissioner found that *“Twitter is the only platform to outperform adult sites in exposing young people to pornography.”*⁴
7. A recent study by Dignify found that 20% of teens are watching pornography regularly with 10% of teens reporting they are addicted to pornography. This porn epidemic has led to catastrophic consequences for schools, with headteachers reporting that addiction to violent pornography has led to an increase in the numbers and frequency of sexual assaults in British schools.⁵
8. A report of the Canadian Parliament in 2021 recommended that online platforms should be held liable for content that was non-consensual or that depicted persons under the age of 18. It was recommended that content providers be placed under a duty to remove such content and an obligation to report be enacted into law.⁶ The report noted evidence that there is *“a significant volume of CSAM that includes pubescent/post pubescent victims that is available on adult sites.”*⁷ Clearly it is harmful to children to access the vast amount of pornographic material that is unfiltered and available online without age verification for the user, but it is also alarming that there is material depicting the rape and abuse of children on adult sites (which is already illegal). Children on both sides of the camera, those able to watch and those forced to participate, need to be protected from the harm of pornography.
9. In relation to search services, Professors McGlynn and Woods in May 2022 note that *“Pornography, including extreme pornography, is easily accessible via the most basic, one-click search on google. This includes the easy search for and return of extreme pornography, other illegal porn and incest porn.”*⁸ Free and unfettered access to this type of material is clearly harmful to children.
10. A study by Durham university in 2021 found a considerable amount of content on the main user-to-user sites was illegal or violent.⁹ The study concluded *“We have found that mainstream pornography websites are likely hosting material that is unlawful to distribute or download. It is not the case that criminal material is relegated to niche sites, hidden from all but a determined viewer, or only available on the dark web. It thus cannot be assumed either by regulators, individual users or policy-makers, that the mainstream websites are ‘safe’ sites, free from unlawful material.”* The hosting of illegal and violent pornography on user-to-user services is now

⁴ Children’s Commissioner for England report January 2023 *‘A lot of it is actually just abuse’- Young people and pornography | Children’s Commissioner for England (childrenscommissioner.gov.uk)*, pages 5, 4 and 21

⁵ Harriet Grant, The Guardian 10th March 2023. <https://www.theguardian.com/society/2023/mar/10/porn-study-survey-uk-teenagers-addicted>

⁶ Canadian House of Commons Standing Committee on Access to Information, Privacy and Ethics published a report *Ensuring the Protection of Privacy on Platforms Such as Pornhub* page 45

⁷ *Ibid* 19

⁸ *Pornography and the UK’s Online Safety Bill by Clare McGlynn, Lorna Woods, SSRN*, July 2022, page 3

⁹ *Sexual violence as a sexual script in mainstream online pornography | The British Journal of Criminology | Oxford Academic (oup.com)*

mainstream and requires robust regulation and enforcement to ensure it is removed from online platforms.

Question 17: To what extent does or can a service adopt functionalities or features, designed to mitigate the risk or impact of content that is harmful to children on that service?

11. In relation to pornographic content, robust age verification must be implemented as swiftly as possible after the passing of the Online Safety Bill. This type of technology is urgently needed to mitigate risk.
12. CARE recommends that this should be introduced no later than 6 months after Royal Assent. Ofcom's Roadmap to Regulation states that both Part 3 and Part 5 services "*should prepare to engage with our consultation regarding measures to prevent children accessing pornographic material around Autumn 2023*"¹⁰ with the expectation that all the codes will be approved by Parliament in Autumn 2024.¹¹ This timeline is clearly unsustainable, it is unlikely, despite what Ofcom have said to the DCMS committee, that consultation documents will be issued this year as the Bill is unlikely to pass through Parliament before the autumn.
13. It is unacceptable that another three years could pass, and it could be as late as 2026 before robust age verification is put in place. This delay would mean it will be over seven years after the implementation of the DEA was abandoned that age verification is finally implemented. Children who were aged 10 in 2017, will have lived their entire teenage years without any protection from online harm; this delay has caused considerable harm to children in the UK.
14. **Recommendation: Age verification technology is available and must be utilised as swiftly as possible after Royal Assent is given for the Online Safety Bill. This should be no later than 6 months after the Bill becomes law.**

Question 25: In what instances is content that is harmful to children, that is in contravention of terms and conditions, removed from a service or the part of a service that children can access?

15. Despite content that is illegal and/or published without the consent of the participant being against the terms and conditions of most large adult sites, this material is still hosted by those platforms. The need for action on content that has been uploaded without consent was raised by a Committee of the Canadian Parliament in June 2021.¹² It was noted by the committee that content was almost never removed or was reposted quickly after it had been successfully removed from the platform. The committee recommended that "*The Government of Canada develop accessible mechanisms that ensure that Canadians victimized by the posting of an image or video online without their consent on sites like Pornhub have the right to have that content removed immediately and to be given the benefit of the doubt with respect to the non-consensual nature of the content, and that the Government of Canada provide all the necessary resources required to put in place these accessible mechanisms.*" This should also be a priority in the UK.

¹⁰ Online Safety Bill: Roadmap to regulation, Ofcom, [6 July 2022](#), page 18

¹¹ Online Safety Bill: Roadmap to regulation, Ofcom, [6 July 2022](#), page 16

¹² Canadian House of Commons Standing Committee on Access to Information, Privacy and Ethics published a report [Ensuring the Protection of Privacy on Platforms Such as Pornhub](#)

16. It is often the case that pornographic content on large adult user-to-user sites is not just a violation of that particular platforms terms and conditions, rather when it is a child that is depicted or abused in that content it is a crime and must be treated as such. This is not simply a matter of holding content providers to account for how they say they will operate their site, they should ensure that the law, as it currently stands, is enforced. It is deplorable that extremely harmful, illegal material, is still tolerated and freely available on adult websites and social media, without proper enforcement of the law, let alone removed through a content providers terms and conditions.¹³ This is not content on the dark recesses of the internet, this content is freely available on easily accessible mainstream adult content providers. It is not just terms and conditions that should be enforced, the law must be consistently implemented to protect children.

¹³ Daniel Barnard, Toronto Star, 10th December 2020 [Illegal videos on Pornhub are more than just a scandal — it's time to call the cops | The Star](#)