

Your response

Question	Your response
<p>Chapter 3.1</p> <p>Consultation question 1: Do you agree with our proposed approach to determining QWR? We would welcome comments in particular on:</p> <p>a) Our proposal to define QWR by reference to worldwide revenues.</p> <p>b) Our proposals in relation to apportioning revenue to the regulated service.</p> <p>c) Our proposed approach to requiring QWR to be aggregated across all regulated services provided by the provider.</p> <p>d) Our proposal to take account of revenues received by another group undertaking in the determination of QWR.</p> <p>Consultation question 2: Do you agree with our proposed definition of ‘qualifying period’?</p> <p>Consultation question 3: Do you have any views on our proposal not to issue a statement to Part 4B services (VSPs) (under paragraph 21 of Schedule 17 to the Act)?</p> <p>Please provide evidence to support your responses.</p>	<p>Confidential? – NO</p> <p>1</p> <p>a) Yes.</p> <p>b) Yes, although we hold some concerns about the self-apportioning aspect of this proposal. We believe it would be more helpful for Ofcom to set a baseline for this, to ensure that the service does not under-apportion revenue. If the proposal is enacted, it will rely on trust in service provider being accurate and transparent around revenue, reflecting the ‘just and reasonable’ approach noted by Ofcom. We suggest there should also be an accompanying ask from Ofcom requiring suitable evidence in how the service arrived at the apportionment figure.</p> <p>c) Yes, we feel this makes sense.</p> <p>d) Yes.</p> <p>2: Yes</p> <p>3: We feel this is a reasonable measure and limits unnecessary work for Ofcom given that the VSP regime is likely to be repealed before the fees regime is implemented. We are pleased to see that Ofcom will still offer specific support for those VSP providers who seek it regarding what services are referable.</p>
<p>Chapter 3.2</p> <p>Consultation question 4: Do you agree with our proposal for determining the QWR of a group, when calculating the maximum penalty that may</p>	<p>Confidential? – NO</p> <p>4: Yes, we think this makes sense and follows the Act in this regard. Using the most recent accounting period to determine the Group QWR allows for a more immediate</p>

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<p>be imposed on a provider and one or more group undertakings which are jointly and severally liable for a breach under the Act, i.e. that it is determined as the sum of the worldwide revenues of the provider and each of its group undertakings, whether or not attributable to the provision of a regulated service? Please provide evidence in support of your response.</p>	<p>sanction and enforcement action. This sends a clear message to contravening providers. We note that Ofcom has discretion to choose which one of the liable undertakings will be applicable for the penalty. We encourage Ofcom to choose the liability representing the greatest value. This will further reinforce the unacceptability of failure to comply.</p>
<p>Chapter 3.3</p> <p>Consultation question 5: Do you have any comments on our proposed advice to the Secretary of State to set a QWR threshold figure within the range of £200m to £500m, with a preferred figure of £250m, for all types of regulated services?</p> <p>Consultation question 6: Do you have any comments on our proposed exemption for providers with UK revenue less than £10m in a qualifying period?</p> <p>Consultation question 7: Do you agree that an exemption for services contributing to the public interest is not required at this time given the proposed QWR threshold and UK revenue exemption?</p> <p>Please provide evidence to support your responses.</p>	<p>Confidential? – NO</p> <p>5: We do not agree with the proposals or approach for this measure. We are concerned by the frequent mention of easing compliance burdens for providers, as well as adding to administrative complexities for certain providers. The online safety regime, including fees and penalties, must be effective in delivering online safety. We believe that these fees are the necessary cost of doing business in the UK within a strong online safety framework. Compliance is a must, and providers need to take these costs seriously. We do not accept that Small and Medium Enterprises (SME) should be out of scope for fees. Furthermore, we believe it is irrelevant that their fees would only contribute nominally to total QWR. Applying fees to SMEs is not just about fairness in approach, it is also to communicate their place in the online safety scheme as a whole, and the responsibilities which flow from that. We believe the range proposed needs to capture more providers as a whole.</p> <p>6: While we understand this approach, we also believe it is important that providers adequately evidence that they have met this threshold (<£10k/qualifying period).</p> <p>7: Yes, we agree with this, but we appreciate that this is to be kept under review.</p>
<p>Chapter 3.4</p> <p>Consultation question 8: Do you agree with our proposed approach to setting the amount of fees payable by</p>	<p>Confidential? – NO</p>

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<p>providers above the QWR threshold? Please provide evidence to support your response.</p>	<p>8: Generally, yes, we agree with this, especially that it allows for a certain amount of predictability for providers, for planning purposes. Our only caveat to this would be that small but risky services are potentially not impacted appropriately by the fees schedule, despite the fact their services induce risk. We wonder whether Ofcom can consider calculating small but risky services not solely due to QWR threshold, but in consideration of their level of risk, (allowing small but risky services to be a unique category for fee calculation purposes). This would necessitate Ofcom having sight of their risk assessment(s) to calculate a fee. Although complex, we believe small but risky services should not be able to avoid suitable fees because they do not meet the QWR threshold. Any fees could still be relative to their revenue threshold for the qualifying period.</p>
<p>Chapter 4</p> <p>Consultation question 9: Do you agree with our proposals relating to supporting evidence, documentation and other information, and manner of notification, as reflected in our Notification Regulations (Annex 10)?</p> <p>Consultation question 10: Do you have any comments on the proposed Manner of Notification document in Annex 11 accompanying the Notification Regulations?</p>	<p>Confidential? – NO</p> <p>9: Yes, we fully agree with this and it reflects our earlier comments around the need for appropriate and fulsome evidence. A declaration of accuracy and completeness adds weight to this and allows Ofcom to rely on this for pursuing enforcement action, if shown that the details are inaccurate, incomplete or misleading. We are not clear on whether any fraudulent information would result in a criminal sanction, rather than just a financial penalty?</p> <p>10: We don't have anything to add to this. We believe it is appropriate.</p>
<p>Chapter 5</p> <p>Consultation question 11: Do you agree with our assessment of the potential impact of our proposals? If you disagree, please explain why.</p>	<p>Confidential? – NO</p> <p>While we note that Ofcom has a duty to consider impact, especially for micro businesses and SMEs, we still believe it is important for Ofcom to scrutinise whether it may be appropriate to widen/alter the fee and penalty structure to take in micro business or SMEs in the future. We consider that a certain amount of "bedding in" is required for these measures (and others measures supporting the application of the Online Safety Act). As such, we think the existing assessment is reasonable, but in the final</p>

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	version we think it is important to add that this something that will be taken under review, within a certain time period.
<p>Overall</p> <p>Consultation question 12: Do you have further views / comments that you wish to make in respect of this consultation?</p> <p>Please provide evidence in support of your responses.</p>	<p>Confidential? – NO</p> <p>No.</p>
<p>Annex A7 questions</p>	
<p>Consultation question A1: In relation to our equality impact assessment, do you agree with our assessment of the potential impact of our proposals on equality groups? If you disagree, please explain why.</p> <p>Consultation question A2: Are you currently aware of any providers of regulated services targeting or providing support in any way to specific equality groups that are likely to generate a QWR that meets or exceeds the proposed threshold?</p> <p>Consultation question A3: 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? 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</p>	<p>Confidential? – NO</p> <p>We have nothing to add on these specific measures.</p>

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fewer adverse effects on opportunities to use Welsh and treating Welsh no less favourably than English.	

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