# Your response

## Executive summary

Google is providing this response to Ofcom's consultation on torture and animal cruelty offences under the UK Online Safety Act. Our responses are intended to supplement our previous response to the illegal harms consultation and, as such, we do not reiterate every point made in that response and instead focus primarily on comments specific to this offence.

## Ofcom's Register of Risks

| Question 1: |
| --- |
| Do you have any comments on Ofcom's assessment of the causes and impacts of online harms? Do you think we have missed anything important in our analysis? Please provide evidence to support your answer. |

**Confidential: No**

We note that the causes and impacts of online harms as described in Ofcom's guidance are necessarily general. However, the causes of harm in any individual case are likely to be complex and multifactorial, including offline/ real world experiences, such that something that causes harm to one person may not cause harm to another. Equally, the unique profile of the user (and their specific attributes and characteristics) are unlikely to be ascertainable by the service.

We would also make similar comments as previously about the reliability, robustness and comprehensiveness of Ofcom's evidence base in drawing conclusions about Risk Profiles. We also note that some conclusions in the guidance lack evidential basis. We would urge Ofcom to ensure that it proceeds on the basis of robust evidence, as it formulates codes of conduct and guidance with which in-scope companies will be expected to comply, and we would welcome clarification about how and why Ofcom has selected the relevant sources.

| Question 2: |
| --- |
| Do you have any views about our interpretation of the links between risk factors and different kinds of illegal harm? Please provide evidence to support your answer. |

**Confidential: No**

The Act requires Ofcom to prepare risk profiles and we recognise the work that Ofcom has undertaken to gather evidence and assess the causes and impacts of illegal online harms. In outlining its assessment, we recognise the need for Ofcom to draw generalisations about the links between risk factors and different kinds of illegal harm. However, not all characteristics or functionalities are inherently harmful, and some functionalities which Ofcom has identified as risk factors can indeed be beneficial for consumers (such as advertising as a business model and the use of recommender

systems). We believe Ofcom should explicitly recognise that characteristics do not necessarily correlate to an increased risk of harm in the context of every service that has that characteristic.

In particular, and as with previous Ofcom guidance, Google is concerned that the Codes currently overindex on the potential harm caused by the availability of a recommender system. We note that Ofcom considers that recommender systems can amplify the risk of animal cruelty content, even where users react negatively to it (para 5.66). However that conclusion can only be drawn in relation to a specific recommender system on a particular service, rather than *any* recommender system by its very nature. Recommendations don't just help connect viewers with content that uniquely informs and entertains them, they play an important role in how we maintain a responsible platform.

In the context of YouTube, as a video sharing platform, recommendations complement the work we do to remove content that violates our Community Guidelines or the law in the countries where we operate, such as the UK. They connect users to relevant, timely and high-quality information as we take the additional step of recommending authoritative videos to viewers on certain topics, such as those prone to misinformation. We rely on human evaluators, trained using publicly available [guidelines](), who assess the quality of information in each channel and video. We also rely on certified experts, such as medical doctors, when content involves health information. To decide if a video is authoritative, evaluators look at factors like the expertise and reputation of the speaker or channel, the main topic of the video, and whether the content delivers on its promise or achieves its goal. The more authoritative a video, the more it is promoted in recommendations.

In addition, we've used recommendations to limit low-quality content from being widely viewed since 2011, when we developed automated detection tools to identify videos that were racy or violent and prevented them from being recommended, and to improve user experience. Since 2019, YouTube has worked aggressively to reduce recommendations of borderline content and harmful misinformation. The more "borderline" a video, the less frequently it is recommended.

Connecting viewers to high-quality information and minimising the chances they'll see problematic content is not just important from a platform safety perspective, it is also paramount to our goal of recommending content that delivers value. These efforts complement the work done by our robust Community Guidelines, by allowing content that some may find objectionable to remain visible and accessible to users on the platform who wish to find and view it, and are critical to our responsibility efforts.

## Service's risk assessment

**Questions 3-5:**

Do you have any comments on our approach to amending the draft Risk Profiles or our proposed risk factors for animal cruelty? Are the draft Risk Profiles for illegal content sufficiently clear in presenting the relationships between the risk factors and the risk of harm posed by animal cruelty

content? Do the draft Risk Profiles for illegal content include the risk factors that are most strongly linked to the risk of harm posed by animal cruelty content?

**Confidential: N**

We reiterate concerns articulated in our illegal harms response that the risk profiles are likely to be difficult to apply in practice and our concerns about the appropriateness of the "service type" risk factors. Equally, where risk factor definitions include language such as "typically" as a threshold (for example, the definition of "messaging service"), it may not be appropriate for the risk factor to be applied to the specific service in question.

### i) The Illegal Content Judgements Guidance (ICJG)

**Question 6-8:**

Do you agree with our proposals? Do you consider the guidance to be sufficiently accessible, particularly for providers with limited access to legal expertise? What do you think of our assessment of what information is reasonably available and relevant to illegal content judgements?

**Confidential: N**

We note that whilst section 127(1) Communications Act offence could already be a basis for removal of content, the specific reference to this as a non-priority offence in the guidance is a helpful clarification and provides a degree of regulatory certainty.

Ofcom has indicated that services should consider this offence when content depicts infliction of pain or suffering "for no good reason". We note, however, that the content still needs to be "*grossly offensive or of an indecent, obscene or menacing character*" to meet the legal requirement, and some examples given in Ofcom's guidance (such as consuming live animals) may not in every case meet this illegality threshold (e.g. there may be cultural or educational reasons why the content is not illegal).

We consider the specific illegal content guidance to be very helpful, particularly for smaller services. However, we reiterate the risk of over-removal of lawful content where services are applying a threshold of "reasonable grounds to infer". We note that this is not necessarily about civil or criminal liability on the part of the content owner, but rather the broader implications for users, such as on the user's rights of free speech, or to monetise content. In our view, therefore, where platforms are making impactful decisions on 'illegality' of content, the threshold should reflect the seriousness of making such a judgement. In our view it is only 'reasonable to infer' illegality when it is also 'reasonable to infer' that a court would do so.