

Your response

Ofcom's Register of Risks

Question 1:

- i) Do you have any comments on Ofcom's assessment of the causes and impacts of online harms?

Response: In terms of the consultation's clear focus of online depictions of deliberate and/or sadistic animal cruelty where the person committing the cruelty 'ought reasonably to be aware that they would be committing an animal cruelty offence' (5.16), we find Ofcom's analysis to be impressively comprehensive. We appreciate the recognition of the need to ensure that social media platforms continue to permit legitimate campaigning organisations from sharing content that supports our goal of preventing animal cruelty.

We find a slightly greyer area in the assessment on the appropriate course of action for content where it is unclear whether an animal has been put in a dangerous situation deliberately, as is often the case with fake rescue videos. We believe that social media platforms' Illegal Harms Risk Assessments should be encouraged to investigate and assess the content legitimacy of channels and content generators who frequently share extremely popular animal 'rescue' content, for example by establishing whether they are registered charities or organisations set up to assist animals. In cases where content has questionable origins, social media platforms should find ways to limit their monetisation potential.

We are contacted by supporters and members of the public on a daily basis in reference to disturbing animal cruelty content. A complicating factor on cruelty content we are asked to respond to is that it can be presented as a current/recent situation when frequently a fairly brief investigation concludes that the video/image is in fact many years old. Similarly, the location of the video is often miscommunicated during sharing, and racist comments on the assumed identity of the perpetrators (e.g. Chinese people) are extremely common. We recommend that social media platforms should require that people posting any animal cruelty content should be required to watermark or text overlay the date and country in which the footage or image was captured. Charities and animal campaigning/rescue organisations may also be encouraged to add their name to footage to provide users with legitimacy of origin.

- ii) Do you think we have missed anything important in our analysis? Please provide evidence to support your answer.

Response: The consultation notes that 'animal cruelty content takes various forms' (section 5.14) including 'gratuitous imagery of wounded and dead animals'. Ofcom also notes (5.19) that 'viewing content which encourages, assists or conspires to animal cruelty may distress a user, or alternatively persuade them to engage in harmful or illegal behaviours themselves.' We concur with both of these assessments, and recommend Ofcom considers the effect of animal product marketing on the growing proportion of the public who define themselves as ethical vegans.

While images of dead whole animals of certain species (e.g. chickens, fish) and animal body parts (e.g. ribs, heads) have been normalised within society, it is nonetheless the case that such imagery causes distress to some people and that those people would describe the content as 'obscene' per Ofcom's definition as: 'to mean something atrocious and horrific in terms of the pain and

suffering depicted.’ (section 9.79). It is also the case that people with knowledge of farming and slaughter methods in the UK are able to discern that some animals sold as products have suffered *unnecessarily* in the most conservative interpretation. Examples include depictions of whole chickens or chicken legs with clear ammonia hock burns from being grown too quickly and standing/collapsing in their own excreta; and non-slaughter products (kosher and halal) being sold to consumers who have no religious dietary requirement for non-stun slaughter products.

We object to Ofcom’s proposed exception in section 9.81:

“...it is likely to be reasonable to infer that content is obscene where it graphically depicts what appears to be the real: deliberate killing or serious injury of humans or animals for no good reason (*except* where such killing or serious injury is otherwise lawful, for example in war or food production);”

There is no justifiable reason why obscene depictions of animal cruelty and suffering in the course of food production should be exempted and legitimised for online consumption. We urge Ofcom to consider the inconsistency of a position in which an image or video showing a cow having his or her throat slit while conscious is not deemed to be obscene or an offence, but a video of somebody cutting the head off a kitten would (presumably) be deemed an offence. The experience of suffering for the animals is the same, and indeed most right-thinking online users would be similarly horrified at the pain and suffering that would be apparent in both videos.

This proposed exception is also subjective with regard to cultural norms of food production; would service providers be required to handle a video of a dog being electrocuted in China to be eaten differently to a video of a pig being electrocuted in the UK? A video depicting lobsters being boiled alive would presumably not be determined to be obscene, but would a video of a fish being cooked alive in oil or on a griddle (a practice known as *Ikizukuri* in Japan, and *Yin yang fish* in China)? It is unclear who the arbiter of what ‘a good reason’ to kill or seriously injure animals is, and a broad brush acceptance of cruelty in a ‘food production’ setting will undoubtedly cause confusion for both service providers and users.

We recommend Ofcom includes within its Online Experience research survey questions that help to quantify and understand public offence and objection taken to being exposed to online images and video of dead animals or recognisable body parts, regardless of species.

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No

Question 2:

i) 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.

Response: There is the potential for heightened risk of misinterpretation of content, including greater willingness of social media platform users believing and sharing fake rescues, where the audio and/or any text of the content is not in (for the purposes of this consultation and the extent of the Act) English.

ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No

Service's risk assessment

Question 3:

- i) Do you have any comments on our approach to amending the draft Risk Profiles or our proposed risk factors for animal cruelty?

Response:

- ii) Please provide the underlying arguments and evidence that support your views.

Response: n/a

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: n/a

Question 4:

- i) 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?

Response: no additional comments

- ii) Please provide the underlying arguments and evidence that support your views.

Response: n/a

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: n/a

Question 5:

- i) 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?

Response: Recommend adding animal cruelty to 3a (Services with User Profiles); 5a (Services with livestreaming); 5c (Services with encrypted messaging) and 5g (Services with re-posting or forwarding of content)

- ii) Please provide the underlying arguments and evidence that support your views.

Response: Platforms should be encouraged to identify and remove profiles promoting fake animal rescues. Such accounts can cause significant distress amongst viewing users, and in some cases even contribution to the soliciting of fraudulent donations.

Platforms should also be alerted to the risk of live streaming services being used to facilitate sharing of animal cruelty as a type of illegal harm. This was a component of the widely documented cases of sharing of abuse to monkeys, and also appears to be a core feature of a current wave of cat torture online content originating in China.

Platforms should be aware of the risk of users seeking to distribute and share animal cruelty content using encrypted services, as was the case with the secret chat option on Telegram being used to facilitate the international monkey torture ring.

Platforms that facilitate re-posting or sharing of content are frequently and very successfully used by creators and distributors of animal cruelty content. People sharing and amplifying the content often do so out of disgust and a desire to prevent the cruelty taking place, but paradoxically such sharing can serve as a motivation to create further cruelty content, including fake rescues.

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No

The Illegal Content Judgements Guidance (ICJG)

Question 6:

i) Do you agree with our proposals? Please provide the underlying arguments and evidence that inform your view.

Response: No. We consider that proposing that only live acts of animal cruelty would be a priority offence under the Animal Welfare Act Ofcom is being too limited in its interpretation. People who carry out activities that constitute offences under Section 4 of the Animal Welfare Act are prosecuted after the event, so it is unclear why there should be a higher threshold for cruelty where the evidence is apparent online. We recommend that recorded events shared online should be included with Ofcom's threshold encouraging/assisting/conspiring people to commit animal cruelty acts. Such an interpretation would be in keeping with the intent of Parliamentarians who supported the amendment which led to the inclusion of animals in the Online Safety Act. Ofcom's limited and conservative proposal will not protect online users, including children, in the way that was intended by Parliamentarians.

We appreciate that in section 9.47 Ofcom propose clarifying that content for the purposes of 'political campaigning' should not be interpreted as illegal content under this offence. However, we do not consider that the proposed guidance under section 9.84 offers sufficient clarity that it would *not* usually be reasonable to infer that content is obscene when it is posted in the course of campaigning for the protection of animals. We recommend adding an additional bullet point to the list of examples where content is not likely to be determined to be obscene:

- 'animals who have experienced or are experiencing suffering where clearly shared in the course of educating and enabling the public to act to prevent such situations from occurring.'

As per our answer to question 1(ii), we also recommend the removal of the bullet point in section 9.81 that suggests that it would not usually be reasonable to infer that animal cruelty content featuring 'typical food production' is obscene and therefore constitute a non-priority offence. As discussed in question 1(ii), such an exclusion is ambiguous, and also may create contradictions with the priority offence under the Animal Welfare Act. For example, a farmer encouraging another farmer to engage in tail cutting of piglets *en masse*, would be guilty of an offence under the Animal Welfare Act (and also the relevant subordinate Welfare of Farmed Animals Regulations 2007), but the posting of a recorded video depicting tail docking could be defended as part of 'typical food production' in the UK.

We consider that Ofcom's proposed application of Section 127(1) with respect to the Online Safety Act (section 9.72: "*a tai*;") is quite subjective in the interpretation of what a 'good reason' is, and recommend that examples be expanded.

ii) Please provide the underlying arguments and evidence that support your views.

Response: please see above

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No

Question 7:

i) Do you consider the guidance to be sufficiently accessible, particularly for providers with limited access to legal expertise?

Response: n/a

ii) Please provide the underlying arguments and evidence that support your views.

Response: n/a

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: n/a

Question 8:

i) What do you think of our assessment of what information is reasonably available and relevant to illegal content judgements?

Response: n/a

ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: n/a