Summary

The ▮▮▮▮▮▮▮▮▮▮▮▮ welcomes the opportunity to respond to Ofcom's *consultation Illegal harms further consultation: Torture and animal cruelty.* We aim to provide the perspective of a diverse range of platforms to ensure that the regulatory approach is consistently proportionate, adaptable and relevant to all the platforms in scope and ensures a level playing field. Ensuring safety while protecting choice and diversity online will go a long way to safeguarding positive outcomes across the internet for all users.

As we said in our previous response to the wider illegal harms consultation, ▮▮▮▮▮ strongly welcomes and appreciates Ofcom's extensive research and evidence gathering and how this forms the basis of proposals. We acknowledge that, overall, Ofcom has taken a much more risk-based approach to these proposals than the approach taken by other jurisdictions, and we strongly urge Ofcom to maintain this approach in the final guidance. ▮▮▮▮▮ has enjoyed consistent engagement with the regulator and looks forward to this continuing.

As such with this response, ▮▮▮▮▮ would like to reiterate the points we raised in our previous response to show the same views apply, alongside engaging on the new issues. Overall, the cumulative impact of all these measures must be considered to address the entire cost of compliance, recognising this will be the case across multiple jurisdictions, in order to preserve digital competition.

As a reminder, our members are diverse and their user bases are different, reflecting the wide variety of reasons people use internet services. The regulations must therefore be: sufficiently flexible to allow for the wide variety of business models in scope; sufficiently proportionate to reflect the significant difference in risk profile of the firms in scope; and sufficiently specific where needed to ensure certainty and clarity for ease of compliance.

Ofcom's Register of Risks

As mentioned, ▮▮▮▮ members greatly appreciate the level of research Ofcom has carried out to ensure proposals are led by evidence. It also welcomes Ofcom's explanations around certain harm impacts and the nuance in how these harms in particular are treated and striking the right moderation balance. Members of the ▮▮▮▮ are particularly supportive of ensuring the risk register does not require services to assess higher risk for situations in which users are openly debating the issue or shining a light on the issue from an activist perspective and where they are showing examples of such.

Otherwise, and in relation to the above point, ▮▮▮▮▮ reiterates the points made in the November 2023 submission: certain functionalities and characteristics do not inherently increase the risk of these harms, and in fact, can actually be used to aid healthy and positive discussion, or prevent users from seeing such content. ▮▮▮▮▮ has a continued concern that there is a risk of introducing over-burdensome regulation without recognising that characteristics and functionalities unique to platforms can benefit their safety-by-design systems and processes. If services are driven to focus on hypothetical and potentially irrelevant risks, they may not be able to continue refining and ensuring the success of these safety-by-design systems.

We welcome Ofcom's assessment of the low level of risk, if any, on vertical search services.

Service's risk assessment

▮▮▮▮▮ reiterates its November 2023 response to highlight that the way risk assessments have been laid out is welcomed. The idea of the four-step risk assessment process is a useful and innovative means of helping businesses to navigate and comply with their wider obligations under the Act.

Illegal Content Judgements Guidance

Members of ▇▇▇▇▇▇ welcome Ofcom's focus on the offences of encouraging, assisting and conspiracy to commit the harms. Ofcom has correctly set a standard for what this content could include, which will be critical to prevent misunderstanding and any confusion over what content is or isn't illegal. We would encourage Ofcom to maintain its standard.