Response to Ofcom Plan of Work 2022/3 from Carnegie UK

1. We welcome the opportunity to respond to Ofcom's plan of work. For the past three years, Carnegie UK's work to develop a statutory duty of care for online harm reduction enforced by an independent regulator has influenced the policy debate on online harms reduction in the UK and beyond, and shaped the underlying model now seen in the UK Government's draft Online Safety Bill. Information about our work - including submissions to Parliamentary, Government and other consultations - is available here: https://www.carnegieuktrust.org.uk/programmes/tackling-online-harm/

2. Since starting this work in 2018, we have called for Ofcom to be appointed as the regulator with responsibility for Online Harms, reflecting its strong track record as an independent regulator, its ability to stand up to big business interests and to take finely balanced judgements on broadcasting content. We are glad that the Government confirmed this new role for Ofcom when it published the draft Bill in May 2021. We have also been pleased to see the extensive recruitment campaign undertaken in recent months and the calibre of many of the individuals appointed to take forward your new responsibilities in this area. Many of the research and survey publications from Ofcom in the last twelve months have also added greatly to evidence-based foundations on which the new legislation will sit. The early learnings from the work to regulate video-sharing platforms will also be crucial to developing Ofcom's role as regulator under the Online Safety Bill, and we welcome the acknowledgement of this in the plan (para 2.38).

3. The new plan of work clearly sets out the task ahead and the priority actions (p24) identified by Ofcom for the year ahead are broadly correct.

   We make a few comments on these below:

   - *Supporting the legislative process*. We appreciate that much of the advice provided to Government and Parliament in this role needs to be confidential and that Ofcom cannot step beyond the powers it has already from Government to shape the legislation before it. However, we would urge Ofcom to use its influence to push for the earliest possible indication from DCMS as to the definition of harm and/or priority harms, depending on how these are framed in the final version of the Bill. This very much links to the development of their existing work in relation to the regulation of video-sharing platforms.

   - *Developing our regulatory approach*. The plan of work highlights the extensive consultation exercises that Ofcom will have to undertake in order to implement the regime and that it aims "to consult on these matters as soon as possible after the Bill has passed". The Bill is long-delayed and the necessity for greater user protection against online

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harm grows with every passing year, while responsible businesses and trade bodies, keen to prepare for regulation, have told us that clarity on such codes is required sooner rather than later. We note (under "building public awareness of our proposed future role") that Ofcom intends "next year" to build on and broaden their "existing engagement with major services that are expected to be within scope, to build knowledge and understanding of the steps that should be taken to improve online safety".

We are concerned that will not go far enough, quickly enough and that, without formal instruction from Government, this engagement might be prove solely to be another route to lobbying for a watering down of the proposals from those within the sector who are against the introduction of regulation. We would urge Ofcom to do its utmost to make the case for paving powers to be implemented by Government such that consultations on codes, where possible, can take place in tandem with the passage of the Bill and with enhanced authority for the regulator to consult on regulatory detail, not on hypotheses.

- *Building public awareness of our proposed future role*. We welcome the intention to "communicate our approach to developing the online safety regime during the legislative process, engaging extensively with parliamentarians, industry, civil society, expert and representative bodies and the public". Mechanisms to continue this engagement after the passage of the Bill should be designed and formalised as early as possible to enable ongoing scrutiny of its effectiveness and to ensure that the voice of the user is part of this. Care should be taken to ensure that the widest array of civil society organisations is involved in this engagement, to ensure that the diversity of experience of online harms is truly reflected and can inform the ongoing regulatory design.

- *Setting up our operation*. As noted above, we commend Ofcom on the steps taken to date to recruit and develop the capabilities required for the new role.

- *Investing in technology, data and sector knowledge*. "We will strengthen our programme of research into the behaviours and experiences of internet users, the dynamics and incentives of online platforms, and the tools and technologies that can impact the safety of internet users". One specific area that would merit greater research is around the different experiences of different users depending on their background or characteristics, as well as the nature of intersectionality which is particularly relevant to experience of online abuse.

4. We welcome the steps taken to date (outlined in the Developing Partnerships section; p 29) to continue to formalise the work of the Digital Regulation Cooperation Forum and look forward to the new work plan in March 2022.

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