



RESPONSE TO OFCOM'S PROPOSED PLAN OF WORK 2024/5

We focus our comments in this response on Ofcom's [Proposed Plan of Work 2024/5](#) on its Online Safety objectives and the work relating to them.

We note that Ofcom sets out the following sub-outcomes for its overall outcome "We live a safer life online" (p6).

- Governance: Services have appropriate governance and accountability arrangements in place to assess risk to users, especially children.
- Design and operations: Services put in place the trust and safety measures needed to mitigate risks and keep users safe.
- Choice: Users are aware of what they can do to be safer online, including controlling the content they see, the people they interact with and being able to easily report harmful content.
- Trust: Ofcom is established as a credible and trusted online safety regulator.

With related 2024/5 deliverables as follows:

- Implementing the online safety regime including publishing our consultations on codes and guidance related to the protection of children.
- Engaging with online services within scope of the new regime, notably high-risk or high-reach services.
- Continuing to develop our operational effectiveness.
- Continuing our regulation of video-sharing platforms (VSPs) and our Making Sense of Media (MSOM) media literacy programme

It is an unfortunate omission that there is no mention within the deliverables of engagement with civil society organisations, researchers or experts with specialist interests or expertise in the field of online safety, nor an acknowledgement that the voice of users and, particularly, victims of online harms are a necessary counterbalance to the input of the regulated services that Ofcom is overseeing. Indeed, there is no reference at all to "civil society" within the whole document. We appreciate that the scope and level of interest in the Online Safety Act is not

comparable to any of Ofcom's other regulatory domains but suggest that this oversight is urgently rectified throughout all the strategic, policy and operational statements relating to its online safety responsibilities.

In the detailed section relating to this priority outcome (pp16 onwards), we make the following observations:

- Para 2.22 “While the focus of the Act is online safety, we will ensure that our approach upholds the importance of freedom of expression online as we take on our new duties” - please see [our recent blog](#) on why this prioritization of freedom of expression may in itself undermine the duties that Ofcom has, not just to deliver improved online safety but to uphold the fundamental rights of all online users.
- Para 2.23: “To continue to ensure that users stay safe online, services need to embed user safety at the heart of their decision-making. As we implement subsequent phases of the Act in future years, we will also use our transparency reporting powers to shine a light on how effective platforms’ systems and processes are in protecting their users, and to incentivise further improvements”. We have a number of concerns that the proposals set out in the illegal harms consultation do not have the necessary focus on “systems and processes” to deliver the online safety step-change envisaged by the Online Safety Act, nor do we think that the approach to risk assessment will give Ofcom the flexibility it needs in enforcing its powers to ensure that regulators are incentivized to improve their online environments. Instead, we are worried that the approach will in effect impose a rules-based regime that enforces the status quo.
- Page 18: we note the commitments that “In spring 2024 we will publish our consultations on codes and guidance related to the protection of children, and additional regulatory requirements applying to the largest and most used services will follow in 2025” There is no mention in the Plan of the work that will need to take place to deliver the “subsequent iterations” of the illegal harms codes that is a core promise within the current consultation: this is important as, given the emerging concerns from civil society as to the limitations of the first iterations, there will be an expectation that Ofcom will move quickly to review the evidence it receives when this consultation closes and to bring forward early revisions of the codes for consultation to address the identified gaps. It would be good to understand how Ofcom is allowing for this requirement in its forward plan and the related resourcing decisions.
- Page 29: we note the commitment to engage with academic researchers: “Engaging with the academic community to help develop our evidence base. We have a focus on building relationships with academic researchers to ensure Ofcom's work is informed by the latest insights from academic research. This is particularly important for online

safety, where we will work with academics on developing the insights, we need to effectively understand user experiences online and the impact of platforms' safety measures." As above, we regret that there is no mention of civil society organisations whose expertise is vital in ensuring that the OSA implementation is effective.

- It is also in Ofcom's gift to accelerate the publication of the researchers' access to information report (section 162 of the Online Safety Act) and subsequent guidance, on which we would hope to have seen mention in this plan. We would also hope that civil society organisations might be engaged to contribute to the OSA's skilled person's reports.
- These gaps underline our concerns as to the evidential threshold Ofcom is using to judge whether measures in the codes are permissible or not, which we will set out further in our response to the illegal harms consultation.

Online Safety Act Network
February 2024