



Public Affairs Update

Regulating Online Harms

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Online Harms White Paper

- In April 2019, the then UK government published the “Online Harms” White Paper
- Government strategy for tackling a wide (indeed, indefinite) range of “online harms”, both content and behavior
- Proposed introducing a “duty of care” to “prevent harm” that would apply to all online services carrying user-generated content.



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A new statutory duty of care to make companies take more responsibility for the safety of their users and tackle harm caused by content or activity on their services.

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What is harm?

Harms with a clear definition	Harms with a less clear definition	Underage exposure to legal content
Child sexual exploitation & abuse	Cyber-bullying and trolling	Children accessing pornography
Terrorist content	Extremist content & activity	Children accessing inappropriate material
Organised immigration crime	Coercive behaviour	- (under 13s on social media)
Modern slavery	Intimidation	- (under 18s on dating apps)
Hate crime	Disinformation	- Excessive screen time
Sexting of indecent images by minors	Violent content	
	Online abuse of public figures	

Delegating to a regulator

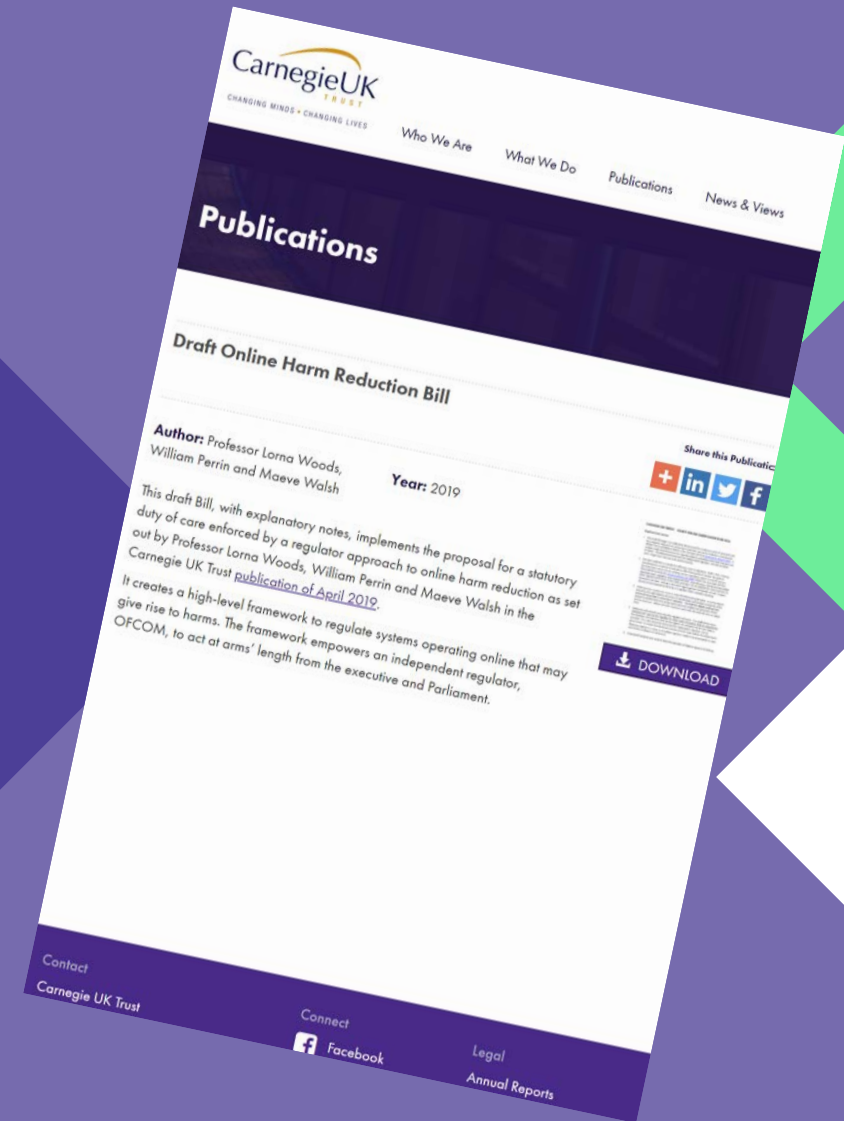
- White Paper says little about what a company must do to satisfy a duty of care
- Instead, government proposes to create a new regulator for Internet harms
- This regulator will have the power to
 - Define harm
 - Issue Codes of Practice
 - Impose sanctions on companies
- Unclear whether regulator will also have executive power to establish systems and tools

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Carnegie Trust

Draft Online Harms Reduction Bill



Government changes



Rt. Hon. Boris Johnson MP
Prime Minister
July 2018 – present



Rt. Hon. Oliver Dowd MP
Secretary of State for DCMS
July 2019 – February 2020

Public consultation

- Formal public consultation ran 8th April – 1st July 2019
- Government “Initial Response” to the consultation published 12th February 2020

Consultation responses

1,531 response using the governments online form	A further 908 responses by e-mail
84% from individuals	16% from organisations
Three “organised campaigns:	The Samaritans, Hacked Off, Open Rights Group



A notable number of individual respondents to the written consultation disagreed with the overall proposals set out in the White Paper. Those respondents often seemed not to engage with the substance of questions on the specific proposals, but instead reiterated a general disagreement with the overall approach.



Government analysis of responses



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Respondents welcomed the targeted, proportionate and risk based approach that the regulator is expected to take

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Respondents to the consultation as well as the stakeholders who were engaged highlighted the importance of transparency, both in terms of reporting processes and moderation practices.

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Civil society groups overall expressed support for firm enforcement actions in cases of non-compliance.

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Industry and rights groups expressed some concerns about the impact of some of the measures on the UK's attractiveness to the tech sector and on freedom of expression.

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Responses across stakeholders recognised the balance between taking appropriate action to address the serious harms [...] Most companies and organisations agreed that expectations of private services to tackle harm should be greater, firstly where content and activity is illegal, and secondly where children are involved.

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Most respondents opposed the inclusion of private communication services in scope of regulation.

However, some responses - both from individuals and organisations acknowledged that abuse, harassment and some of the most serious illegal activity occur in private spaces, like closed community forums and chat rooms. These responses expressed support for the principle that platforms should be responsible for their users' safety in private channels.





Executive summary and Ministerial forward

Ministerial Forward

- Reaffirms commitment to “make the UK the safest place in the world to be online”
- But couples it with “and the best place to start and grow a digital business.”
- A new stress on freedom of expression and on protecting innovation



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Firstly, freedom of expression, and the role of a free press, is vital to a healthy democracy. We will ensure that there are safeguards in the legislation, so companies and the new regulator have a clear responsibility to protect users' rights online, including freedom of expression and the need to maintain a vibrant and diverse public square.

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We are also introducing greater transparency about content removal, with the opportunity for users to appeal.

We will not prevent adults from accessing or posting legal content, nor require companies to remove specific pieces of legal content. The new regulatory framework will instead require companies, where relevant, to explicitly state what content and behaviour is acceptable on their sites and then for platforms to enforce this consistently.





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Thirdly, many respondents reinforced the importance of higher levels of protection for children, which will be reflected in the policy we develop through this consultation.

The proposals assume a higher level of protection for children than for the typical adult user, including, where appropriate, measures to prevent children from accessing age-inappropriate or harmful content.





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Policy commitments

Freedom of expression

- Regulation will establish differentiated expectations on companies for illegal content and activity, versus conduct that is not illegal but has the potential to cause harm. Regulation will therefore not force companies to remove specific pieces of legal content.
- Services in scope of the regulation will need to ensure that illegal content is removed expeditiously and that the risk of it appearing is minimised by effective systems.
- [T]he regulator will not investigate or adjudicate on individual complaints.
- Companies will be required to have effective and proportionate user redress mechanisms which will enable users to report harmful content and to challenge content takedown where necessary.

Enforcement

- No decision yet on whether to go ahead with
 1. Business disruption measures, for non-compliant/foreign businesses
 2. Senior management liability

Proportionality

- “Risk based approach”
- Company obligations will vary with
 - “the organisation’s associated risk, first and foremost, size and the resources available to it, as well as by the risk associated with the service provided.”

Misc

- Ofcom will be the regulator
- Regulator will be required to consult
- Stresses that companies having a social media page will not be brought into scope thereby
- B2B services will be out-of-scope of regulation

Next steps

Legislative outlook

- A “key legislative priority”
- “we have a comprehensive programme of work planned to ensure that we keep momentum until legislation is introduced as soon as parliamentary time allows”
- “this is an iterative step as we consider how best to approach this complex and important issue”
- Full response to be published in the spring

Non-legislative steps

- Interim (voluntary) Codes of Practice are being negotiated with major platforms, law enforcement and child protection groups
- Government to publish an annual “Transparency Report”, and has established a “multi-stakeholder Transparency Working Group”



Thank you



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