



# Communications Act 2003

## 2003 CHAPTER 21

### [<sup>F1</sup>PART 4B

#### VIDEO-SHARING PLATFORM SERVICES

##### *[<sup>F1</sup>Information and reports*

#### Textual Amendments

- F1** Pt. 4B inserted (1.11.2020 for specified purposes, 6.4.2021 in so far as not already in force) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(3)(b), 47 (with Pt. 7)

#### **368Z10 Power to demand information**

- (1) The appropriate regulatory authority may require a person who appears to be or to have been a provider of a video-sharing platform service to provide them with all such information relating to that service as the authority require for the purpose of carrying out their functions under this Part.
- (2) The appropriate regulatory authority may also require a person who appears to have or to be able to generate information that the authority reasonably require for the purpose of carrying out their functions under this Part to provide them with that information.
- (3) The information that may be required by the appropriate regulatory authority under subsection (1) or (2) includes, in particular, information that they require for any one or more of the following purposes—
  - (a) the purpose of determining whether a person [<sup>F2</sup>has the required connection with the United Kingdom under section 368S(2)(d)];
  - (b) the purpose of determining whether there has been any change of circumstance that may affect a determination mentioned in paragraph (a);
  - (c) the purpose of determining the appropriate fee that a provider of a video-sharing platform service is required to pay under section 368Z9;

*Status: Point in time view as at 10/01/2024.*

**Changes to legislation:** *Communications Act 2003, Cross Heading: Information and reports is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (d) the purpose of assessing compliance with section 368V, 368Y or 368Z1(1), (2), (6) or (7);
  - (e) the purpose of determining which of the measures set out in Schedule 15A the authority consider to be appropriate in relation to a video-sharing platform service for any of the purposes mentioned in section 368Z1(1);
  - (f) the purposes of an investigation being carried out by the authority to determine—
    - (i) whether a contravention of section 368V, 368Y or 368Z1(6) or (7) has occurred or is occurring,
    - (ii) whether a provider of a video-sharing platform service has failed to take a measure set out in Schedule 15A which the authority consider to be appropriate in relation to that service for any of the purposes mentioned in subsection (1) of section 368Z1, or
    - (iii) whether a provider of a video-sharing platform service has failed to comply with subsection (2) of section 368Z1;
  - (g) the purpose of monitoring which of the measures set out in Schedule 15A are taken by providers of video-sharing platform services for the purposes mentioned in section 368Z1(1), and how such measures are implemented;
  - (h) the purpose of producing a report under section 368Z11;
  - (i) the purpose of ascertaining or calculating applicable qualifying revenue under section 368Z4.
- (4) A requirement imposed on a person to provide information under this section includes a requirement that the person must, if necessary, generate the information.
- (5) The appropriate regulatory authority may only require the provision of information under this section if—
- (a) the demand for the information is contained in a notice served on the person from whom the information is required that describes the required information and sets out the purpose or purposes for which it is required,
  - (b) the demand for the information is proportionate to the use to which the information is to be put in the carrying out of the authority’s functions, and
  - (c) the authority have given the person from whom the information is required the opportunity to make representations to the authority concerning the demand.
- (6) A person who is required to provide information under this section must provide it in such manner and form and within such reasonable period as may be specified by the authority in the demand for information.
- (7) Sections 368Z2 and 368Z5 apply in relation to a failure by a provider of a video-sharing platform service to comply with a demand for information under this section as if that failure were a contravention of section 368Y.
- (8) Section 368Z2 applies in relation to a failure by a person other than a provider of a video-sharing platform service to comply with a demand for information under this section as if that failure were a contravention of section 368Y, but where section 368Z2 applies by virtue of this subsection—
- (a) references in that section and in section 368Z4 to a provider of a video-sharing platform service are to be read as references to the person who has failed to comply with the demand for information, and

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- (b) section 368Z4(1) is to apply as if, for the words “5% of the provider’s applicable qualifying revenue or £250,000, whichever is the greater amount,” there were substituted “£250,000”.
- (9) In this section “information” includes technical information and material such as videos, audiovisual commercial communications, screenshots and archived material.

#### Textual Amendments

**F2** Words in s. 368Z10(3)(a) substituted (10.1.2024) by [Online Safety Act 2023 \(c. 50\), s. 240\(1\), Sch. 16 para. 6; S.I. 2023/1420, reg. 2\(z28\)](#)

### 368Z11 Reports by OFCOM

- (1) OFCOM may from time to time produce and publish reports about—
  - (a) the steps taken by providers of video-sharing platform services to comply with sections 368Y and 368Z1(6) and (7);
  - (b) the measures taken by providers for the purposes mentioned in section 368Z1(1), and the ways in which such measures are implemented so as to carry out those purposes;
  - (c) the systems adopted by providers for the reporting, flagging or rating of material on the service and the handling of complaints or the resolution of disputes relating to the service.
- (2) In publishing a report under this section, OFCOM must have regard to the need to exclude from publication, so far as that is practicable, the matters which are confidential in accordance with subsections (3) and (4).
- (3) A matter is confidential under this subsection if—
  - (a) it relates specifically to the affairs of a particular body, and
  - (b) publication of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that body.
- (4) A matter is confidential under this subsection if—
  - (a) it relates to the private affairs of an individual, and
  - (b) publication of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that individual.]

### [<sup>F3</sup>368Z12] **Co-operation with EEA States**

OFCOM may co-operate with EEA states which are subject to the Audiovisual Media Services Directive, and with the national regulatory authorities of such EEA states, for the following purposes—

- (a) facilitating the carrying out by OFCOM of any of their functions under this Part; or
- (b) facilitating the carrying out by the national regulatory authorities of the EEA states of any of their functions in relation to video-sharing platform services under that Directive as it has effect in EU law as amended from time to time.]

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#### **Textual Amendments**

**F3** S. 368Z12 substituted (10.1.2024) by [Online Safety Act 2023 \(c. 50\)](#), s. 240(1), [Sch. 16 para. 7](#); [S.I. 2023/1420](#), reg. 2(z28)

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