



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 6 **U.K.**

#### DUTIES OF PROVIDERS OF REGULATED SERVICES: FEES

#### 83 **Duty to notify OFCOM** **U.K.**

- (1) A provider of a regulated service must notify OFCOM in relation to a charging year which is—
  - (a) the first fee-paying year in relation to that provider, or
  - (b) any charging year after the first fee-paying year where—
    - (i) the previous charging year was not a fee-paying year in relation to the provider, and the charging year in question is a fee-paying year in relation to the provider, or
    - (ii) the previous charging year was a fee-paying year in relation to the provider, and the charging year in question is not a fee-paying year in relation to the provider.
- (2) A “fee-paying year”, in relation to a provider, means a charging year where both of the following conditions apply—
  - (a) the provider’s qualifying worldwide revenue for the qualifying period that relates to that charging year is equal to or greater than the threshold figure that has effect for that charging year (see section 86), and
  - (b) the provider is not exempt (see subsection (6)).
- (3) A notification under subsection (1) in relation to a charging year must include details of all regulated services provided by the provider, and where it is a notification under subsection (1)(a) or (b)(i), it must also include—
  - (a) details of the provider’s qualifying worldwide revenue for the qualifying period that relates to that charging year, and
  - (b) supporting evidence, documents or other information as required by regulations made by OFCOM under section 85.

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- (4) Section 85 confers power on OFCOM to make regulations about the determination of a provider’s qualifying worldwide revenue, and the meaning of “qualifying period”, for the purposes of this Part.
- (5) A notification under subsection (1) must be provided to OFCOM—
  - (a) in relation to the initial charging year, within four months of the date on which the first regulations under section 86 come into force (first threshold figure);
  - (b) in relation to subsequent charging years, at least six months before the beginning of the charging year to which the notification relates.
- (6) OFCOM may provide that particular descriptions of providers of regulated services are exempt for the purposes of this section and section 84 where—
  - (a) OFCOM consider that an exemption for such providers is appropriate, and
  - (b) the Secretary of State approves the exemption.
- (7) OFCOM may revoke such an exemption where they consider that it is no longer appropriate and the Secretary of State approves the revocation.
- (8) Exemptions, or revocations of exemptions, which are approved by the Secretary of State are to take effect from the beginning of a particular charging year.
- (9) Details of an exemption or revocation must be published by OFCOM at least six months before the beginning of the first charging year for which the exemption or revocation is to have effect.
- (10) But subsection (9) does not apply in relation to any exemptions which are to have effect for the initial charging year.
- (11) For the purposes of this section and section 84, the “provider” of a regulated service, in relation to a charging year, includes a person who is the provider of the service for part of that year.

**Commencement Information**

- I1** S. 83 not in force at Royal Assent, see **s. 240(1)**  
**I2** S. 83 in force at 10.1.2024 by **S.I. 2023/1420, reg. 2(z)**

**84 Duty to pay fees** **U.K.**

- (1) OFCOM may require a provider of a regulated service to pay a fee in respect of a charging year which is a fee-paying year.
- (2) Where OFCOM require a provider of a regulated service to pay a fee in respect of a charging year, the fee is to be equal to the amount produced by a computation—
  - (a) made by reference to—
    - (i) the provider’s qualifying worldwide revenue for the qualifying period relating to that charging year, and
    - (ii) any other factors that OFCOM consider appropriate, and
  - (b) made in the manner that OFCOM consider appropriate.
- (3) For the purposes of this section and section 83—
  - (a) the amount of a provider’s qualifying worldwide revenue for a qualifying period, or

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- (b) the amount of a fee to be paid to OFCOM, or of an instalment of such a fee, is, in the event of a disagreement between the provider and OFCOM, the amount determined by OFCOM.
- (4) When determining fees payable under this section, OFCOM must do so in accordance with a statement of principles as mentioned in section 88(1).
- (5) Where a person is the provider of a regulated service for part of a charging year only, OFCOM may refund all or part of a fee paid to OFCOM under this section by that provider in respect of that year.
- (6) In this section, “fee-paying year” has the same meaning as in section 83.

#### Commencement Information

- I3** S. 84 not in force at Royal Assent, see **s. 240(1)**
- I4** S. 84 in force at 10.1.2024 by **S.I. 2023/1420, reg. 2(z)**

## 85 Regulations by OFCOM about qualifying worldwide revenue etc **U.K.**

- (1) For the purposes of this Part, OFCOM may by regulations make provision—
  - (a) about how the qualifying worldwide revenue of a provider of a regulated service is to be determined, and
  - (b) defining the “qualifying period” in relation to a charging year.
- (2) OFCOM may by regulations also make provision specifying or describing evidence, documents or other information that providers must supply to OFCOM for the purposes of section 83 (see subsection (3)(b) of that section), including provision about the way in which providers must supply the evidence, documents or information.
- (3) Regulations under subsection (1)(a) may provide that the qualifying worldwide revenue of a provider of a regulated service (P) who is a member of a group during any part of a qualifying period is to include the qualifying worldwide revenue of any entity that—
  - (a) is a group undertaking in relation to P for all or part of that period, and
  - (b) receives or is due to receive, during that period, any amount referable (to any degree) to a regulated service provided by P.
- (4) Regulations under subsection (1)(a) may, in particular—
  - (a) make provision about circumstances in which amounts do, or do not, count as being referable (to any degree) to a regulated service for the purposes of the determination of the qualifying worldwide revenue of the provider of the service or of an entity that is a group undertaking in relation to the provider;
  - (b) provide for cases or circumstances in which amounts that—
    - (i) are of a kind specified or described in the regulations, and
    - (ii) are not referable to a regulated service,are to be brought into account in determining the qualifying worldwide revenue of the provider of the service or of an entity that is a group undertaking in relation to the provider.
- (5) Regulations which make provision of a kind mentioned in subsection (3) may include provision that, in the case of an entity that is a group undertaking in relation to a

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provider for part (not all) of a qualifying period, only amounts relating to the part of the qualifying period for which the entity was a group undertaking may be brought into account in determining the entity’s qualifying worldwide revenue.

- (6) Regulations under subsection (1)(a) may make provision corresponding to paragraph 5(8) of Schedule 13.
- (7) Before making regulations under subsection (1) OFCOM must consult—
  - (a) the Secretary of State,
  - (b) the Treasury, and
  - (c) such other persons as OFCOM consider appropriate.
- (8) Before making regulations under subsection (2) OFCOM must consult the Secretary of State.
- (9) Regulations under this section may make provision subject to such exemptions and exceptions as OFCOM consider appropriate.
- (10) In this section—
 

“group” means a parent undertaking and its subsidiary undertakings, reading those terms in accordance with section 1162 of the Companies Act 2006;

“group undertaking” has the meaning given by section 1161(5) of that Act.

#### Commencement Information

- I5** S. 85 not in force at Royal Assent, see **s. 240(1)**
- I6** S. 85 in force at 10.1.2024 by **S.I. 2023/1420, reg. 2(z)**

## 86 Threshold figure **U.K.**

- (1) OFCOM must carry out a consultation to inform the setting of the threshold figure for the purposes of sections 83 and 84, consulting such persons as they consider appropriate.
- (2) After the completion of the consultation, and having taken advice from OFCOM, the Secretary of State must make regulations specifying the threshold figure for those purposes.
- (3) The Secretary of State must keep the threshold figure under review.
- (4) If the Secretary of State considers that it may be appropriate to revise the threshold figure, the Secretary of State may request OFCOM to carry out a further consultation, and subsections (1) and (2) apply again.
- (5) Regulations must provide that a threshold figure is to take effect from the beginning of a particular charging year.
- (6) Regulations specifying a threshold figure must be in force at least nine months before the beginning of the first charging year for which that figure is to have effect.
- (7) But subsection (6) does not apply in relation to the first regulations made under this section.

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#### Commencement Information

- I7** S. 86 not in force at Royal Assent, see [s. 240\(1\)](#)  
**I8** S. 86 in force at 10.1.2024 by [S.I. 2023/1420](#), [reg. 2\(z\)](#)

### **87 Secretary of State’s guidance about fees** **U.K.**

- (1) The Secretary of State must issue guidance to OFCOM about the principles to be included in a statement of principles that OFCOM propose to apply in determining fees payable under section 84 (see section 88).
- (2) The Secretary of State must consult OFCOM before issuing, revising or replacing the guidance.
- (3) The guidance may not be revised or replaced more frequently than once every three years unless—
  - (a) the guidance needs to be corrected because of an amendment, repeal or modification of any provision of this Part, or
  - (b) the revision or replacement is by agreement between the Secretary of State and OFCOM.
- (4) The Secretary of State must lay the guidance (including revised or replacement guidance) before Parliament.
- (5) The Secretary of State must publish the guidance (and any revised or replacement guidance).
- (6) In exercising any functions under this Part, OFCOM must have regard to the guidance for the time being published under this section.

#### Commencement Information

- I9** S. 87 not in force at Royal Assent, see [s. 240\(1\)](#)  
**I10** S. 87 in force at 10.1.2024 by [S.I. 2023/1420](#), [reg. 2\(z\)](#)

### **88 OFCOM’s fees statements** **U.K.**

- (1) OFCOM may not require a provider of a regulated service to pay a fee under section 84 unless there is in force a statement of the principles that OFCOM propose to apply in determining fees payable under that section.
- (2) Those principles must be such as appear to OFCOM to be likely to secure, on the basis of such estimates of the likely costs as it is practicable for them to make—
  - (a) that on a year by year basis, the aggregate amount of the fees payable to OFCOM under section 84 is sufficient to meet, but does not exceed, the annual cost to OFCOM of the exercise of their online safety functions;
  - (b) that the fees required under section 84 are justifiable and proportionate having regard to the functions in respect of which they are imposed;
  - (c) that the relationship between meeting the cost of the exercise of those functions and the amounts of the fees is transparent.
- (3) A statement of principles mentioned in subsection (1) must (among other things)—

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- (a) include details relating to the computation model used to calculate fees payable under section 84, including details of factors mentioned in subsection (2)(a)(ii) of that section (if any),
  - (b) include details about the meaning of “qualifying worldwide revenue” and “qualifying period” for the purposes of this Part, and
  - (c) specify the threshold figure contained in regulations under section 86.
- (4) Before making or revising such a statement of principles, OFCOM must consult such persons as they consider appropriate.
- (5) Such a statement of principles may make different provision in relation to different kinds of regulated services.
- (6) OFCOM must publish such a statement of principles (and any revised or replacement statement).
- (7) As soon as reasonably practicable after the end of each charging year, OFCOM must publish a statement setting out, in respect of that year—
- (a) the aggregate amount of the fees payable under section 84 for that year that has been received by OFCOM,
  - (b) the aggregate amount of the fees payable under that section for that year that remains outstanding and is likely to be paid or recovered, and
  - (c) the cost to OFCOM of the exercise of their online safety functions.
- (8) Any deficit or surplus shown (after applying this subsection for all previous years) by a statement under subsection (7) must be carried forward and taken into account in determining what is required to satisfy the requirement imposed by virtue of subsection (2)(a) in relation to the following year.
- (9) For the purposes of this section OFCOM’s costs of the exercise of their online safety functions during a charging year include the costs of preparations for the exercise of their online safety functions incurred during that year.

**Commencement Information**

- I11** S. 88 not in force at Royal Assent, see [s. 240\(1\)](#)  
**I12** S. 88 in force at 10.1.2024 by [S.I. 2023/1420, reg. 2\(z\)](#)

**89 Recovery of OFCOM’s initial costs** **U.K.**

Schedule 10 makes provision about fees chargeable to providers of regulated services in connection with OFCOM’s recovery of costs incurred before the first day of the initial charging year.

**Commencement Information**

- I13** S. 89 not in force at Royal Assent, see [s. 240\(1\)](#)  
**I14** S. 89 in force at 10.1.2024 by [S.I. 2023/1420, reg. 2\(z\)](#)

**90 Meaning of “charging year” and “initial charging year”** **U.K.**

In this Part—

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“charging year” means any period of 12 months beginning with 1 April, except such a period that falls before the initial charging year;

“initial charging year” means the period of 12 months beginning with 1 April specified by OFCOM in a notice published for the purposes of this Part.

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**Commencement Information**

**I15** S. 90 in force at Royal Assent, see [s. 240\(4\)\(n\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 80(6A) inserted by [2024 c. 15 Sch. 7 para. 5\(2\)\(b\)](#)