



Online Safety Act 2023

2023 CHAPTER 50

PART 4

OTHER DUTIES OF PROVIDERS OF REGULATED USER-TO-USER SERVICES AND REGULATED SEARCH SERVICES

CHAPTER 5

TRANSPARENCY REPORTING

77 Transparency reports about certain Part 3 services

- (1) Once a year, OFCOM must give every provider of a relevant service a notice which requires the provider to produce a report about the service (a “transparency report”).
- (2) If a person is the provider of more than one relevant service, a notice must be given to the provider in respect of each such service.
- (3) In response to a notice relating to a relevant service, the provider of the service must produce a transparency report which must—
 - (a) contain information of a kind specified or described in the notice,
 - (b) be in the format specified in the notice,
 - (c) be submitted to OFCOM by the date specified in the notice, and
 - (d) be published in the manner and by the date specified in the notice.
- (4) A provider must ensure that the information provided in a transparency report is—
 - (a) complete, and
 - (b) accurate in all material respects.
- (5) A “relevant service” means—
 - (a) a Category 1 service (see section 95(10)(a));
 - (b) a Category 2A service (see section 95(10)(b));
 - (c) a Category 2B service (see section 95(10)(c)).

(6) In a notice which relates to a Category 1 service or a Category 2B service, OFCOM may only specify or describe user-to-user information.

But in the case of a service described in subsection (9), that subsection applies instead.

(7) In a notice which relates to a regulated search service that is a Category 2A service, OFCOM may only specify or describe search engine information.

(8) In a notice which relates to a combined service that is a Category 2A service, and is not also a Category 1 service or a Category 2B service, OFCOM may only specify or describe search engine information.

(9) In a notice which relates to a combined service that is a Category 2A service, as well as being a Category 1 service or a Category 2B service, OFCOM may specify or describe user-to-user information or search engine information, or both those kinds of information.

(10) In subsections (6) to (9)—

- (a) “user-to-user information” means information which—
 - (i) is about the matters listed in Part 1 of Schedule 8, and
 - (ii) relates to the user-to-user part of a service;
- (b) “search engine information” means information which—
 - (i) is about the matters listed in Part 2 of Schedule 8, and
 - (ii) relates to the search engine of a service.

(11) Part 3 of Schedule 8 makes further provision about transparency reports.

(12) The Secretary of State may by regulations amend subsection (1) so as to change the frequency of the transparency reporting process.

(13) The Secretary of State must consult OFCOM before making regulations under subsection (12).

(14) In this section “notice” means a notice under subsection (1).

78 OFCOM’s guidance about transparency reports

(1) OFCOM must produce guidance about—

- (a) how OFCOM will determine which information they will require transparency reports under section 77 to contain, including—
 - (i) the principles that they will apply in relation to each of the factors mentioned in paragraph 37 of Schedule 8, and
 - (ii) the steps that they will take to engage with providers of relevant services before requiring information in a notice under section 77(1);
- (b) how information from transparency reports produced by providers of relevant services under section 77 will be used to produce OFCOM’s transparency reports (see section 159); and
- (c) any other matter that OFCOM consider to be relevant to the production and publication of transparency reports under section 77 or 159.

(2) Before producing the guidance (including revised or replacement guidance), OFCOM must consult such of the following as they consider appropriate—

- (a) providers of regulated user-to-user services, and of regulated search services,

- (b) persons who appear to OFCOM to represent such providers,
- (c) persons who appear to OFCOM to represent the interests of children (generally or with particular reference to online safety matters),
- (d) persons whom OFCOM consider to have expertise in equality issues and human rights, in particular—
 - (i) the right to freedom of expression set out in Article 10 of the Convention, and
 - (ii) the right to respect for a person’s private and family life, home and correspondence set out in Article 8 of the Convention,
- (e) the Information Commissioner,
- (f) persons who appear to OFCOM to represent the interests of those with protected characteristics (within the meaning of Part 2 of the Equality Act 2010), and
- (g) persons whom OFCOM consider to have expertise in the enforcement of the criminal law and the protection of national security that is relevant to online safety matters,

and OFCOM must also consult such other persons as OFCOM consider appropriate.

- (3) OFCOM must publish the guidance (and any revised or replacement guidance).
- (4) In exercising their functions under section 77 or 159, OFCOM must have regard to the guidance for the time being published under this section.
- (5) In this section, “relevant service” has the same meaning as in section 77 (see subsection (5) of that section).