



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 7

#### OFCOM'S POWERS AND DUTIES IN RELATION TO REGULATED SERVICES

### CHAPTER 1

#### GENERAL DUTIES

#### **91 General duties of OFCOM under section 3 of the Communications Act**

- (1) Section 3 of the Communications Act (general duties of OFCOM) is amended in accordance with subsections (2) to (8).
- (2) In subsection (2), after paragraph (f) insert—
  - “(g) the adequate protection of citizens from harm presented by content on regulated services, through the appropriate use by providers of such services of systems and processes designed to reduce the risk of such harm.”
- (3) In subsection (4)(c), at the beginning insert “(subject to subsection (5A))”.
- (4) After subsection (4) insert—
  - “(4A) In performing their duties under subsection (1) in relation to matters to which subsection (2)(g) is relevant, OFCOM must have regard to such of the following as appear to them to be relevant in the circumstances—
    - (a) the risk of harm to citizens presented by regulated services;
    - (b) the need for a higher level of protection for children than for adults;
    - (c) the need for it to be clear to providers of regulated services how they may comply with their duties set out in Chapter 2, 3, 4 or 5 of Part 3, Chapter 1, 3 or 4 of Part 4, or Part 5 of the Online Safety Act 2023;
    - (d) the need to exercise their functions so as to secure that providers of regulated services may comply with such duties by taking measures,

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or using measures, systems or processes, which are (where relevant) proportionate to—

- (i) the size or capacity of the provider in question, and
- (ii) the level of risk of harm presented by the service in question, and the severity of the potential harm;
- (e) the desirability of promoting the use by providers of regulated services of technologies which are designed to reduce the risk of harm to citizens presented by content on regulated services;
- (f) the extent to which providers of regulated services demonstrate, in a way that is transparent and accountable, that they are complying with their duties set out in Chapter 2, 3, 4 or 5 of Part 3, Chapter 1, 3 or 4 of Part 4, or Part 5 of the Online Safety Act 2023.”

(5) After subsection (5) insert—

“(5A) Subsection (4)(c) does not apply in relation to the carrying out of any of OFCOM’s online safety functions.”

(6) After subsection (6) insert—

“(6ZA) Where it appears to OFCOM, in relation to the carrying out of any of their online safety functions, that any of their general duties conflict with their duty under section 24, priority must be given to their duty under that section.”

(7) In subsection (14), at the appropriate places insert—

““content on regulated services” means—

- (a) regulated user-generated content present on regulated services,
- (b) search content of regulated services,
- (c) fraudulent advertisements present on regulated services, and
- (d) regulated provider pornographic content present on regulated services;”;

““online safety functions” has the meaning given by section 235 of the Online Safety Act 2023, except that it does not include OFCOM’s general duties;”.

(8) After subsection (14) insert—

“(15) In this section the following terms have the same meaning as in the Online Safety Act 2023—

- “content” (see section 236 of that Act);
- “fraudulent advertisement” (see sections 38 and 39 of that Act);
- “harm” (see section 234 of that Act);
- “provider”, in relation to a regulated service (see section 226 of that Act);
- “regulated user-generated content” (see section 55 of that Act);
- “regulated provider pornographic content” (see section 79 of that Act);
- “regulated service” (see section 4 of that Act);
- “search content” (see section 57 of that Act).”

(9) In section 6 of the Communications Act (duties to review regulatory burdens)—

- (a) in subsection (2), after “this section” insert “(except their online safety functions)”, and

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(b) after subsection (10) insert—

“(11) In this section “online safety functions” has the same meaning as in section 3.”

#### Commencement Information

**I1** S. 91 in force at Royal Assent, see [s. 240\(4\)\(n\)](#)

VALID FROM 10/01/2024

### 92 Duties in relation to strategic priorities

- (1) This section applies where a statement has been designated under section 172(1) (Secretary of State’s statement of strategic priorities).
- (2) OFCOM must have regard to the statement when carrying out their online safety functions.
- (3) Within the period of 40 days beginning with the day on which the statement is designated, or such longer period as the Secretary of State may allow, OFCOM must—
  - (a) explain in writing what they propose to do in consequence of the statement, and
  - (b) publish a copy of that explanation.
- (4) OFCOM must, as soon as reasonably practicable after the end of—
  - (a) the period of 12 months beginning with the day on which the first statement is designated under section 172(1), and
  - (b) every subsequent period of 12 months,publish a review of what they have done during the period in question in consequence of the statement.

#### Commencement Information

**I2** S. 92 not in force at Royal Assent, see [s. 240\(1\)](#)

### 93 Duty to carry out impact assessments

- (1) Section 7 of the Communications Act (duty to carry out impact assessments) is amended as follows.
- (2) In subsection (2), at the beginning insert “Subject to subsection (2A),”.
- (3) After subsection (2) insert—

“(2A) A proposal to do any of the following is important for the purposes of this section—

  - (a) to prepare a code of practice under section 41 of the Online Safety Act 2023;

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- (b) to prepare amendments of such a code of practice; or
- (c) to prepare a code of practice as a replacement for such a code of practice.”

(4) After subsection (4) insert—

“(4A) An assessment under subsection (3)(a) that relates to a proposal mentioned in subsection (2A) must include an assessment of the likely impact of implementing the proposal on small businesses and micro businesses.

(4B) An assessment under subsection (3)(a) that relates to a proposal to do anything else for the purposes of, or in connection with, the carrying out of OFCOM's online safety functions (within the meaning of section 235 of the Online Safety Act 2023) must, so far as the proposal relates to such functions, include an assessment of the likely impact of implementing the proposal on small businesses and micro businesses.”

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**Commencement Information**

**I3** S. 93 in force at Royal Assent, see [s. 240\(4\)\(o\)](#)

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