

Question 1: This government has committed to annual transparency reporting. Beyond the measures set out in this White Paper, should the government do more to build a culture of transparency, trust and accountability across industry and, if so, what?

Internet platforms are already producing transparency reports voluntarily, which have been improving year on year. This has been accomplished through the development of multi-stakeholder best practices, not through the unilateral intervention of government. There is the risk that the natural development of these industry best practices will become derailed by the imposition of a mandate, and that transparency reporting will be reduced to bureaucratic box-ticking. It is also inappropriate for a single country, the United Kingdom, to seek to impose reporting duties on platforms that are multinational in their operation. A better alternative is for the UK government to work through international organizations such as the Internet Governance Forum and the Global Network Initiative to propose improvements to current transparency reporting practices.

Question 2: Should designated bodies be able to bring 'super complaints' to the regulator in specific and clearly evidenced circumstances?

No.

Question 3: What, if any, other measures should the government consider for users who wish to raise concerns about specific pieces of harmful content or activity, and/or breaches of the duty of care?

This question presupposes our support for the concept of a duty of care on Internet platforms, which we do not support. Internet companies should however be encouraged by all affected stakeholders—not just by government—to continue to improve the accessibility of their content reporting processes. For example, documents such as the Santa Clara Principles on Transparency and Accountability in Content Moderation (<https://santaclaraprinciples.org/>) have set higher standards for companies in their content moderation processes. It has not been shown that an inflexible government mandate would be any more effective in encouraging companies to continue to improve these processes.

Question 4: What role should Parliament play in scrutinising the work of the regulator, including the development of codes of practice?

This question again presupposes support for a UK government regulator being appointed to have oversight of global Internet platforms. We do not support this, because existing global multi-stakeholder Internet governance processes are far better suited to this effort,

being more inclusive (geographically and in terms of stakeholder representation), more flexible, and more legitimate. However if such a regulator is appointed, then we do not consider that the UK Parliament is the appropriate body to scrutinize the development of codes of practice. Instead, this should be an open, consultative process.

Question 5: Are proposals for the online platforms and services in scope of the regulatory framework a suitable basis for an effective and proportionate approach?

No. The proposed scope of the framework is far too broad, and could place excessively onerous obligations on ordinary individuals and small nonprofit organizations. If a harms-based regulatory framework is to be imposed on industry, there should be a threshold of scale before it applies, to avoid constructing high barriers to entry and innovation.

Question 6: In developing a definition for private communications, what criteria should be considered?

Private communications are those made under circumstances creating a reasonable expectation of privacy. This includes direct messaging features of social media platforms, whether or not these are advertised as being encrypted, unless the user is explicitly told that their communications may be scanned or monitored.

Question 7: Which channels or forums that can be considered private should be in scope of the regulatory framework?

None, as we do not support the proposed regulatory framework.

Question 7a: What specific requirements might be appropriate to apply to private channels and forums in order to tackle online harms?

Although we do not support the proposed regulatory framework, Internet platforms should continue to be encouraged to improve blocking, filtering, and reporting mechanisms that they make available to their users to enable them to reduce their exposure to unwanted content.

Question 8: What further steps could be taken to ensure the regulator will act in a targeted and proportionate manner?

As mentioned above, we do not support the need for a new regulator. Having said that, one of the ways to ensure that such a regulator acts in a targeted and proportionate manner would be to provide that it not only has a legal duty to consider users' human rights, but also to give it a responsibility to promote those rights, on an equal footing to its

responsibility to prevent online harms. After all, online harms are often the result of an infringement of human rights—but measures taken to avert those harms can also infringe human rights. Ensuring that the regulator's mission is to uphold the human rights of all—online just as offline—would make it more balanced than if its mission were to focus on harm prevention alone.

Question 9: What, if any, advice or support could the regulator provide to businesses, particularly start-ups and SMEs, comply with the regulatory framework?

Start-ups and SMEs will simply be driven out of the United Kingdom if the regulatory framework is too burdensome. If a new regulatory framework must be imposed, a sensible way to avoid this would be to limit its application to Internet platforms over a certain size.

Question 10: Should an online harms regulator be: (i) a new public body, or (ii) an existing public body?

(ii)

Question 10a: If your answer to question 10 is (ii), which body or bodies should it be?

The United Nations Internet Governance Forum (IGF). The IGF has the advantage of having a track record of more than a decade of work in helping to establish cooperative online norms around the reduction of online harms, while upholding universal human rights. The IGF could be strengthened to produce more easily actionable recommendations—and such reforms are already being actively discussed. The IGF's global mandate and its character as an inclusive multi-stakeholder forum makes it much more suited to this endeavor than a government regulator based in the United Kingdom.

Question 11: A new or existing regulator is intended to be cost neutral: on what basis should any funding contributions from industry be determined?

The IGF solicits funding through a multi-donor Trust Fund administered by the United Nations Department of Economic and Social Affairs (UNDESA).

Question 12: Should the regulator be empowered to i) disrupt business activities, or ii) undertake ISP blocking, or iii) implement a regime for senior management liability? What, if any, further powers should be available to the regulator?

None of the above.

Question 13: Should the regulator have the power to require a company based outside the UK and EEA to appoint a nominated representative in the UK or EEA in certain circumstances?

The need for an international approach would be better met by contributing to the development of best practice standards through international fora, rather than by establishing a new national regulator and expecting foreign companies to abide by its rulings.

Question 14: In addition to judicial review should there be a statutory mechanism for companies to appeal against a decision of the regulator, as exists in relation to Ofcom under sections 192-196 of the Communications Act 2003?

Yes.

Question 14a: If your answer to question 14 is 'yes', in what circumstances should companies be able to use this statutory mechanism?

We do not support the introduction of a regulator who could make binding decisions about how Internet platforms deal with online harms. But if such a regulator is introduced, the more avenues available for appealing its decisions, the better.

Question 14b: If your answer to question 14 is 'yes', should the appeal be decided on the basis of the principles that would be applied on an application for judicial review or on the merits of the case?

There would be little purpose served in allowing a statutory appeal if it could not be decided on broader grounds, therefore we would support such an appeal being decided on the merits of the case.

Question 15: What are the greatest opportunities and barriers for (i) innovation and (ii) adoption of safety technologies by UK organisations, and what role should government play in addressing these?

Inflexible regulation is the greatest barrier that impedes industry innovation on safety technologies. Opportunities exist for industry to innovate where the government provides an enabling environment for innovation, rather than a one-size-fits-all template.

The finalization a safety by design framework is a key opportunity for adoption of safety technologies by UK organizations. The imposition of specific responsibilities under a

statutory duty of care could create a barrier towards the adoption of such an evidence-based framework, by emphasizing compliance rather than innovation.

Question 16: What, if any, are the most significant areas in which organisations need practical guidance to build products that are safe by design?

Government does not have a particular role in providing Internet companies with practical guidance to build products that are safe by design. This role is better managed by expert organizations such as the 5Rights Foundation.

Question 17: Should the government be doing more to help people manage their own and their children's online safety and, if so, what?

No.

Question 18: What, if any, role should the regulator have in relation to education and awareness activity?

Education and awareness are of paramount importance, however we do not consider that an industry regulator is the appropriate body to be conducting this role.