



House of Commons  
Culture, Media and Sport  
Committee

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**NFTs and the  
Blockchain: the risks  
to sport and culture:  
Government Response  
to the Committee's  
Fourteenth Report of  
Session 2022–23**

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**Fourth Special Report of Session  
2023–24**

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## The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Culture, Media and Sport and its associated public bodies.

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### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

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Committee reports are published on the Committee's website at <https://committees.parliament.uk/committee/378/culture-media-and-sport-committee/> and in print by Order of the House.

### Committee staff

The current staff of the Committee are Lucy Bishop (Committee Operations Assistant), Andy Boyd (Committee Operations Manager), Dr Conor Durham (Committee Specialist), Ollie Florence (Senior Media and Communications Officer), Natalia Janiec-Janicki (Second Clerk), Lois Jeary (Committee Specialist), Duma Langton (Committee Specialist), Olivia Rose (Media and Communications Officer), and Ben Sneddon (Clerk).

### Contacts

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# Fourth Report

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The Culture Media and Sport Committee published its Fourteenth Report of Session 2022–23, *NFTs and the Blockchain: the risks to sport and culture* (HC 598), on 11 October 2023. The Government response was received on 4 January 2024 and is appended below.

## Appendix: Government Response

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### Introduction

The Government welcomes the publication of the Culture, Media and Sport Committee's report on 'NFTs and the Blockchain: the risks to sport and culture'.

We are grateful to the Committee for its consideration of these emerging technologies, and the potential impact that applications of these technologies could have on sport and culture.

The Government has provided a response below to each of the Committee's recommendations.

Recommendation one: *We recommend that the Government engages with NFT marketplaces to address the scale of infringement and enable copyright holders to enforce their rights. The Government should also address the impact of safe harbour provisions by introducing a code of conduct for online marketplaces operating in the UK, including NFT marketplaces, that protects creators, consumers and sellers from infringing and fraudulent material sold on these platforms.*

### Government response:

The Government understands the concerns raised during the Committee's inquiry that new technologies such as NFTs create new opportunities for infringement of intellectual property rights.

We recognise these concerns and the need for practice to stay apace with technological developments. This is why the UK has a robust and flexible enforcement framework that protects creators, consumers and sellers from Intellectual Property (IP) infringing material sold on a wide range of online marketplaces. The Government believes that a holistic approach is required to tackle online infringement across a range of platforms. This includes a broad range of measures and legal powers, complemented by voluntary practice and practical tools, to achieve an online world that is safe for both IP rightsholders and consumers.

The law which regulates the liability of online marketplaces and other intermediaries (often referred to as 'safe harbour provisions'), provides robust protection against infringement of IP rights. The Government previously considered creating a code of conduct for online marketplaces focused on intermediary liability, but extensive stakeholder engagement showed that a code was not needed at that time. We are not aware of any evidence that would change this assessment in relation to NFT marketplaces. Therefore, the Government does not intend to introduce a new code of conduct for online marketplaces, including NFT marketplaces.

Nonetheless, the Government is aware of the potential for NFT marketplaces becoming increasingly popular and understands that the development of new technologies raises questions about its interaction with intellectual property rights. For this reason, the Government continues to monitor developments and will engage with NFT marketplaces to better understand the potential threats of IP infringement posed by those platforms.

**Recommendation two:** *We recommend that the Government publishes its analysis of the implementation of Article 17 of the European Union Directive on Copyright in the Digital Single Market, and equivalent approaches undertaken by countries outside the EU, by the end of the year.*

**Government response:**

The Government recognises that rightsholders may face challenges when infringement takes place on NFT marketplaces. The application of measures similar to Article 17 of the Digital Single Market Directive in the UK is one proposal to address these and other online infringement concerns.

The Directive on Copyright and related rights in the Digital Single Market came into force on 17 April 2019 and member states had until 17 April 2021 to transpose the Directive into their domestic law. However, a significant number of member states did not transpose the Directive for a long time after the transposition deadline date, and two have still not done so. In those member states which have transposed the Directive, it will be some time before the impacts become clear. Collective licences for copyright are often agreed for a number of years, and limited data will be available until they are renegotiated.

The Government is therefore unable to conduct this analysis at present, as more time is required to fully assess how the Article has been transposed, how it is operating in different EU member states, and how it compares to approaches taken by other countries outside the EU.

As noted during the Committee's evidence sessions, Article 17 of the Digital Single Market Directive refers exclusively to online content sharing service providers. The challenges of applying a similar provision to NFT platforms would be different and would require separate consideration. As set out in our response to the first recommendation, the Government will engage with NFT marketplaces to better understand the potential threats of IP infringement. This engagement will help to inform any future, potential policy approach in this area, and whether approaches similar to Article 17 of the Digital Single Market Directive could be applied to NFT marketplaces.

**Recommendation three:** *We recommend that any measurement of fan engagement in sports, including in the forthcoming regulation of football, should explicitly exclude the use of fan tokens.*

**Government response:**

As announced in the King's Speech, the Government will bring forward legislation to introduce a new Independent Football Regulator. In recognition of the crucial role that fans play, the Independent Football Regulator (IFR) will require all licensed clubs to

consult a representative group of supporters on key decisions and issues, alongside strong new legal protections for vital heritage assets such as stadiums, badges and home shirt colours.

The approach we are taking on fan engagement will allow the IFR to recognise the circumstances of individual clubs and allow them to implement solutions which work for them and their fanbase, while ensuring the IFR has a duty to apply sufficient oversight and standards for clubs. The IFR will assess the structures which underpin fan engagement at clubs and the outcomes which flow from that independently from the leagues. The IFR will therefore expect to assess evidence from fan representatives as well as the club itself and have the power to specify conditions for how the representative group should be constituted where necessary.

Although some clubs do utilise 'fan tokens', this will not form part of the IFR's assessment of whether a club has met the required standard for fan engagement – which will review the structures in place for consulting a representative group of supporters.

We have no broader plans to measure fan engagement. Digital and virtual innovation may present positive opportunities for the sport sector to broaden their fan offer, but we are equally mindful of the need for transparency and protection of fans' interests where there is any element of speculation. The expansion of the FCA's remit into the regulation of cryptopromotion is one such protection in this space.

**Recommendation four: *We recommend that the Government respond to the evidence we have gathered on misleading and/or fraudulent advertising for NFTs. It should ensure that any regime compels the entirety of the advertising supply chain [to] take steps to mitigate the risks of harm to consumers from the marketing of NFTs. We further recommend that the Ministerial-led taskforce explicitly reviews the marketing of NFTs and other cryptoassets to address the prevalence of misleading and fraudulent ads.***

#### **Government response:**

The Government is committed to tackling illegal advertising, including fraudulent or scam adverts; it is essential that consumers have access to fair, clear, and not misleading, information prior to any purchase.

There are already specific laws which ban misleading advertising, including where this relates to NFTs. The Consumer Protection from Unfair Trading Regulations 2008 (CPRs) are enforced by local authority Trading Standards services and the Competition and Markets Authority. These regulations state that traders must not mislead consumers by, for example, giving false or deceptive information, leaving out important information or using aggressive sales techniques.

In addition, as the Committee recognises, DCMS' Online Advertising Programme is reviewing the future regulation of paid-for online advertising in the UK. The Government response to its consultation, published in July 2023, announced that the Programme will have a targeted focus on tackling illegal advertising and increasing protections for under-18s from exposure to advertising for products and services that are illegal to be sold to them. The Government will introduce a new regulatory framework which will combat scam and fraudulent advertising, including where such advertising relates to NFTs, and

will require all in-scope organisations across the online advertising supply chain to have proportionate systems and processes in place to prevent such illegal advertising from occurring.

The Online Advertising Taskforce, chaired by the DCMS Minister of State, was set up to drive forward non-legislative action to tackle illegal advertising and increase protections for under-18s. The Taskforce's remit is to improve evidence and encourage wider adoption of voluntary industry initiatives or standards. The Taskforce is considering next steps, including research and data sharing around the scale and prevalence of illegal harms, which may include the illegal advertising of NFTs and cryptoassets.

Furthermore, the Government is taking decisive measures to protect people from fraudulent advertising online specifically. The Online Safety Act 2023, which recently received Royal Assent, imposes a duty on the largest user-to-user services and search engines to tackle fraudulent adverts on their services. The Government has also recently published an Online Fraud Charter, signed by the biggest companies in the tech sector, which contains a number of commitments from firms in order to reduce fraud on their platforms and services, and raise best practice across the sector. These include commitments related to online advertising.

With regard to cryptoasset advertising in particular, the Government has passed legislation bringing financial promotions of qualifying cryptoassets into the existing regulatory regime for financial promotions, and since October 2023 the FCA has been undertaking enforcement action. This applies to all businesses promoting cryptoassets to UK-based consumers, whether from the UK or abroad. This means a person or firm that is not authorised by the FCA must have its promotions of qualifying cryptoassets approved by a person or firm that is authorised by the FCA before they are communicated, unless an exemption applies. This is aimed at improving consumers' understanding of the risks and benefits associated with cryptoasset investments and ensuring that cryptoasset promotions are held to the same high standards as those in the broader financial services sector.