

**Rt Hon Caroline Nokes MP**  
**By email**

Dame Melanie Dawes  
Chief Executive  
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1 May 2024

Dear Ms Nokes,

Thank you for your letter seeking clarification on Ofcom's implementation of the Online Safety Act and our powers to tackle intimate image abuse. I welcome the spotlight that the Women and Equalities Committee is shining on this issue.

Keeping women and girls safe online is a priority for Ofcom and we are very aware of the severe impacts of intimate image abuse, especially if the content goes viral. With our new Online Safety Act powers, we will make sure that services implement systems and processes to address gender-based violence and abuse, including intimate image abuse.

We published our first consultation on illegal harms two weeks after Royal Assent and will be publishing our second consultation on the protection of children on 8 May. In addition, later this year we will be starting extensive engagement to produce guidance on the wider issues affecting women and girls online, recognising the disproportionate impact of harms by gender. The guidance will bring together into one place the gender-specific measures from all our published Codes, but will also aim to set ambitious additional standards for future best practice across the industry, going beyond the scope of the Act.

### **Removal of non-consensual content across platforms**

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You asked about how our illegal harms consultation deals with the specific question of intimate image abuse. The law is clear that posting intimate images without consent is illegal. Accordingly, our draft Illegal Content Judgements Guidance (which is our practical guidance for services to interpret the offences in the Act) makes it clear that where an intimate image has been posted without consent, including where it is a reshare or repost, it should be taken down. Our draft guidance also states the following:

- where a user has made a report indicating that an intimate image was posted without consent, services should believe the report, and the content should come down;
- where the context indicates the image was obtained without consent (e.g. a 'hack'); and
- where the context indicates the image was posted for malicious reasons (e.g. captions that suggest it was posted for 'revenge'), the content should come down.<sup>1</sup>

Although this guidance is a big step forward, the removal of reshares and reposts may still be slower than we would all like, and will require a lot of users to flag the relevant images to platforms. We are

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<sup>1</sup> See [Annex 10 of Ofcom's Consultation on protecting people from illegal harms online](#), paragraph A10.31.

actively considering what more we can do, within the legal framework of the Act, to address this, and would be happy to give your team a briefing on the legal details.

### **Ofcom's enforcement powers**

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You also asked about how we will use our enforcement powers to counter intimate image abuse. Ofcom's enforcement powers under the Online Safety Act are formidable. If we judge that a service has failed to meet its duties, we can issue fines of up to 10% of global revenue and, in certain cases, apply for a business disruption order. We can take enforcement action where we believe a service has not completed a suitable and sufficient risk assessment, and where services have failed to take the steps we set out in our codes, or equivalent measures, to ensure user safety.

We will only be able to investigate services and take enforcement action once the enforceable duties have come into effect, which will be in the first half of next year once our codes have been finalised and laid in Parliament by the Secretary of State. However, we have already started regulatory supervision of around 40 large and/or risky platforms, and are using this engagement, and our information powers, now to understand in detail what companies' current systems and processes are. This means that once the codes are enforceable we will be able to move quickly to investigate non-compliance where we believe this to be needed.

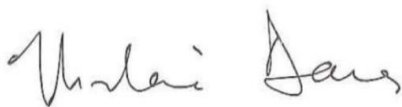
### **Protective technologies for safeguarding against gender-based digital violence**

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Finally, although we believe that our existing consultations contain serious measures that will drive a significant improvement in user safety, they are far from the last word. With the Act only newly passed, Ofcom's preparations to date are necessarily being done without the benefit of information powers, and with the rapid pace of change in the industry constantly creating new risks and opportunities, we are clear that we will need to keep adapting and adding to our Codes, and quickly. In this vein you may be interested to know that [we announced on the 19<sup>th</sup> April](#) that later this year we will launch a new consultation on how AI can be used to proactively detect illegal content including intimate image abuse.

I hope this response has been helpful. I would be very happy to meet if you would like to discuss our wider work to protect women and girls in more detail.

Yours sincerely,



**MELANIE DAWES**