HM Government – supplementary written evidence (DAD0102)

Online Harms

1.   How significant do you view the task facing Ofcom as Online Harms regulator? Do you intend for it to create radical change or simply small improvements? (DCMS)

The Online Harms White Paper set out ambitious, world leading proposals to create a new system of accountability and oversight for tech companies. This is a complex and novel area for public policy. We have consulted a wide-range of stakeholders to design the new regulatory framework, and we will continue to engage ahead of setting out final policy positions and introducing legislation.

The Government announced in February that we are minded to appoint Ofcom as the new online harms regulator. Ofcom is a highly respected organisation, possessing the expertise, experience, independence and leadership to make it well placed to take on this challenge.
We are now working with Ofcom on how to deliver the regulatory framework most effectively, and ensuring that it would have the capabilities to regulate online harms, if it is confirmed as the regulator.

2.   Do you envisage the "substantial fines" the regulator will be able enforce being of similar magnitude to tough penalties under GDPR e.g. up to 4% of Global turnover? (DCMS)

In order to be effective the regulator must have enforcement powers that incentivise companies to fulfil their obligations quickly and effectively. The White Paper set out that the regulator will have the power to issue warnings, notices and fines. Further details will be confirmed as part of our full response to the White Paper consultation.

3.   Do you see additional transparency in platforms' algorithmic design, including access to training data and audits of their outputs, as essential to Ofcom achieving effective oversight of technology platforms? (DCMS)

We recognise the important role that transparency will play in ensuring effective oversight of companies. As well as the power to require annual transparency reports from companies, the regulator will have the power to require additional information from them to inform its oversight and enforcement activity. Further details will be set out as part of the full response to the White Paper consultation.

4.   In the case of legal but potentially harmful content, should Ofcom focus on regulating what content platforms actively recommend to users rather than what content is hosted on their sites? (DCMS)

The Government announced in the initial response to the Online Harms Consultation that regulation will establish differentiated expectations on companies for illegal content and activity, versus conduct that is not illegal but has the potential to cause harm.

Companies in scope of regulation will need to ensure that illegal content is removed expeditiously and that the risk of it appearing is minimised by effective systems. In contrast, regulation will not force companies to remove specific pieces of legal content. The new regulatory framework will instead require companies, where relevant, to explicitly state what content and behaviour they deem to be acceptable on their sites and enforce this consistently and transparently. All companies in scope will need to ensure a higher level of protection for children, and take reasonable steps to protect them from inappropriate or harmful content.
Further detail on the approach to legal but harmful content will be set out in the full response to the consultation.

5. What additional resource will be provided to Ofcom as the new Online Harms regulator? Is the Government working with Ofcom to ensure that it will have sufficient skills and personnel to regulate this area? (DCMS)

The Online Harms White Paper outlined that the regulator would be funded by industry in the medium term. As online harms regulation is an additional responsibility for Ofcom, the Government is considering proportionate fees, charges or a levy on companies whose services are in scope. This new stream of industry funding is intended to cover the full range of the regulator's activities in relation to online harms.

The Government is working very closely with Ofcom to determine what resources would be required to effectively carry out its responsibilities should it be appointed as the Online Harms regulator.

6. Does the Government intend Ofcom to issue sanctions if platforms do not comply with Codes of Practice or submit preferable alternate arrangements, or will Ofcom only issue sanctions if there is specific evidence of harm? (DCMS)

The online harms legislation will establish in law a 'duty of care' that companies in scope will have to protect their users. This will require companies to have appropriate systems and processes in place to deal with harmful content on their services, in order to keep their users safe. The regulator will provide codes of practice and further guidance so companies understand what will be expected of them.

Any companies that fail to fulfil their duty of care could face sanctions. This includes warnings and notices for improvement, and civil fines. The Online Harms White Paper also consulted on further sanctions, including the regulator having the power to take business disruption measures (like removing non-compliant companies from search results, or removing payment facilities) and block ISPs. Further details of the regulator's enforcement powers will be set out in due course.

7.   Will the Government commit to not signing a trade deal that includes rules that limit non-intellectual property civil liability of online platforms for third-party content? (DCMS)

This Government is committed to making the UK the safest place in the world to be online and the best place to start and grow a digital business. Our challenge as a society is to help shape an internet that is open and vibrant but protects users from harm.

By striking free trade agreements with partners across the globe, the UK has the opportunity to increase prosperity in all parts of our country. The Government will seek cutting-edge provisions which maximise opportunities for digital trade across all sectors of the economy, but any agreement must respect the autonomy and sovereignty of both parties. We will carefully consider any interaction between trade policy and online harms policy in future trade agreements. We stand by our online harms commitment and nothing agreed in trade deals will affect that.

Digital Media Literacy

8.   Does the Government think that there is sufficient evidence on the quality of digital media literacy initiatives? If not, what is it doing to gather more evidence of 'what works' and bring together examples of best practice? (DCMS)

We recognise that companies fund a range of valuable education and awareness activities.
We believe there needs to be greater transparency about the level of investment and that activity needs to be better evaluated to ensure resources are directed at the most impactful initiatives. There should also be greater coordination across industry to avoid duplication.
In the Online Harms White Paper we committed to undertake a comprehensive mapping exercise to identify what actions are already underway and to help inform the Government's media literacy strategy. This mapping is now underway as part of a wider piece of analysis considering existing research on levels of media literacy among users, and evaluating the evidence base for media literacy interventions.

We will provide more information about identifying what works and sharing best practice as part of the forthcoming online media literacy strategy later this year.

9.   Do you believe that elements of digital media literacy can be incorporated into subjects across the curriculum? If so, what is the Department for Education doing to ensure teachers have sufficient training to teach this effectively? (DfE)

The computing curriculum was reformed in 2014, to focus on a knowledge-rich programme of study, which will equip pupils with the digital literacy and the expertise they need to use information and communication technology creatively and purposefully. The computer science curriculum includes the fundamental knowledge that empowers pupils to make well-informed choices. It also covers

the principles of e-safety, with progression in the content to reflect the different and escalating risks that young people face.

In terms of teaching pupils 'digital media literacy' in addition to the computing curriculum, there are additional opportunities across the curriculum to learn about these issues, in subjects such as English, History and Citizenship.

We are also introducing the new mandatory subjects of Relationships Education (for all primary pupils), Relationships and Sex Education (RSE, for all secondary pupils) and Health Education (for all pupils in primary and secondary state-funded schools). Pupils will be taught about online relationships, the implications of sharing private or personal data (including images) online, harmful content and contact, cyberbullying and where to get help and support for issues that occur online. The new subject includes extensive internet safety and harms content, including managing time spent online, how to be a knowledgeable and careful consumer of online information, age restrictions, trolling, bullying and how online information is targeted.

In June 2019, DfE published "Teaching online safety in schools" - new non-statutory guidance which aims to support schools in teaching pupils how to stay safe online within new and existing school subjects, such as Relationships Education, Relationships and Sex Education, Health Education, Citizenship and Computing. This new guidance outlines the importance of teaching pupils the underpinning knowledge and behaviours that can help them navigate the online world safely and confidently regardless of the device, platform or app. This includes how to evaluate what they see online.

10.   What is the Government's strategy for improving digital media literacy for those who are above school age? Which department is leading on this and what does it view as Ofcom's role in achieving a satisfactory outcome? (DCMS)

In developing the media literacy strategy, we are undertaking a comprehensive mapping exercise to identify what actions are already underway. Our analysis indicates that a large proportion of initiatives are focused on children and their parents, with significantly fewer media literacy initiatives targeted at adults. The media literacy strategy will ensure a coordinated and strategic approach to online media literacy education and awareness for children, young people and adults.

The strategy is a DCMS lead with close collaboration with colleagues across Government, including both DfE and Cabinet Office, and Ofcom.

Industry and Government have a shared responsibility to empower all users to manage their online safety. Ofcom already has an existing duty to promote media literacy under the Communications Act 2003.

 In the Online Harms White Paper we proposed:

1. that the new regulator will have a responsibility to promote online media literacy;
2. the regulator would have oversight of industry activity and spend;
3. the new regulator would have the power to require companies to report on their education and awareness raising activity.

We are working with Ofcom on how they would deliver the new regulatory framework most effectively if the Government confirms its decision to appoint it as the online harms regulator. We will provide further details about the online harms regulator's future role in the full response to the White Paper consultation.

Elections

11.   Why is the Government not undertaking a programme of holistic electoral reform to update electoral law for the digital age? Has it considered giving the Electoral Commission oversight of local candidate spending and reassessing how spending is split between national and local spending limits? (CO)

The Government recognises the increasing presence of digital campaigning and the need for electoral law to be fit for the digital age.

The Government is pledging to do our part to regulate digital campaigning by making elections more transparent. As part of that, the Government has committed to implementing an imprints regime for digital election material. Our aim is to increase transparency and allow voters to see more information about who has produced election material.

The Government is aware of the recommendations that have been put forward on electoral spending. Electoral spending rules are important; they ensure transparency for the public and provide a level playing field for candidates, campaigners and parties campaigning both offline and online.

In relation to candidate spending returns, under the current framework, candidate spending returns are overseen by Returning Officers and local authorities. The Government has no plan to change this arrangement. To ensure clarity on the electoral spending framework, the Government has worked closely with the Electoral Commission on the Codes of Practice on electoral spending. The statutory Codes provide clarity on what constitutes election expenses under the legal framework for political parties and candidates, and provides examples of how the law applies to different kinds of electoral spending. They are due to come into force for elections scheduled in 2021.

This Government will continue to strive to uphold a modern and transparent electoral framework.

12.   Has the Government considered the Electoral Commission's request for additional powers to request information outside of a formal investigation and for parties to be required to submit more detailed returns for their online spending? What progress has it made on implementing these requests? (CO)

The Government will continue to consider the recommendations from the Electoral Commission to enhance their powers. The Commission has civil sanctioning powers that apply to referendums and elections. More serious

criminal matters can and are referred to the police, and then considered by a court of law. The courts have the power to levy unlimited fines.

Political parties vary in size and in large part depend on volunteers not professionals. It is important to ensure that regulation of them is fair and proportionate so as not to undermine local democracy or discourage engagement.

The rules that govern the spending by campaigners at elections are vitally important in ensuring a level playing field for campaigners and that the public have sufficient access to information about campaigners' activities. The Government keeps the regulatory framework for elections under review, including the transparency of electoral spending. We will continue to give this matter close consideration.

13. What is the Government's timetable for bringing forward proposals to implement imprints on digital election material? Why has this taken so long? (CO)

The Government is pledging to do our part to regulate digital campaigning by making elections more transparent. As part of that, the Government has committed to implementing an imprints regime for digital election material. Our aim is to increase transparency and allow voters to see more information about who has produced election material.

The Cabinet Office is working closely with the Department for Digital, Culture, Media and Sport and other stakeholders to confirm how such regulations will be put into place. The Government is planning to bring forward the technical proposal on the regime and further details will be announced in due course.

We take our electoral law and the campaign framework seriously; it's important to get this right and consult relevant parties.

14. Given the problems that occurred during the General Election with platforms' voluntary transparency on political advertising, has the Government considered regulating for databases of online political material? Does it favour an Electoral Commission led approach where the obligation would be on campaigners to report material or an Ofcom led approach with obligations placed on the technology platforms? (CO)

Several social media companies have implemented measures to improve the transparency of, or restrict, political advertisements on their platforms. These efforts are welcome and represent an improvement in companies' efforts, but have often been inconsistent and we are aware of concerns.

We are working across Government to address this issue. The Department for Digital, Culture, Media and Sport continues to engage with the major social media platforms as well as other stakeholders to discuss the most effective and proportionate responses.

The Government keeps the broader regulatory picture under review and we remain committed to ensuring elections are secure and fit for the modern age.

Following the election, we are considering how best to take forward our work in this area and further details will be announced in due course. Both the Electoral Commission and Ofcom are key stakeholders in this area of work and we will continue to work closely with them.

Technology to improve democracy

15. **What progress has Government made in ensuring that all data needed to facilitate democratic engagement, from polling station locations to candidate information, is published in open and machine-readable formats? (CO)**

Data on polling stations and candidate information is not produced or collected centrally by the Government. Individual Returning Officers (ROs) (and others charged with running polls) are responsible for the conduct of a poll and providing this data. Legislation requires them to provide different data relating to a poll in different forms - for example, information about an elector's polling station must be sent via a poll card to the elector's registered address whilst candidate information has to be publicly displayed. Many ROs also make this information available online and provide information electronically to electors who request it.

Separately, the Government is committed to ensuring the widest possible participation in our democracy and has taken steps to ensure that information which will facilitate democratic engagement is available online. For example, the Government has worked extensively with organisations to develop a range of democratic engagement resources to promote democratic engagement and voter registration, all available on GOV.UK. These are aimed at electoral registration officers, civil society groups and teachers. Anyone can use the materials; the sessions are straightforward to prepare and run and can be tailored to suit different groups and settings. There are some easy-read versions available. These are freely available to download from GOV.UK and include the following:

● Rock Enrol!®: engaging young people in democracy. This is a high quality, interactive resource pack to encourage young people to register to vote.
● A Youth Engagement Toolkit for Elected and Non-Elected Officials, with resources to use when visiting schools, youth clubs and engaging with young people on social media.
● Youth Count! Democracy Challenge, which is designed to help young people develop an understanding of democracy and voting.

Furthermore, the IER Digital Service (IER DS), which was introduced in 2014, has had a transformative effect in facilitating voter registration. It verifies both online and paper applications and has processed over 47 million applications to register to vote since June 2014 - with over 75% of applications being made online. For the 2019 General Election 91.7% of the 3.85 million applications submitted between the day the poll was announced and the registration deadline were made online.

It is the role of the Electoral Commission to promote awareness of elections, for which it has a statutory responsibility, including public awareness campaigns on

voter registration, and it is for candidates and political parties to encourage people to vote in elections.

16. How does the Government plan to learn from the upcoming evaluation of the Innovation in Democracy Programme? If the evaluation is positive, what are the Government's next steps? (DCMS)

The Innovation in Democracy Programme trialled innovative models of deliberative democracy to involve citizens in local decision-making, leading to people having a real impact on local policy development and delivery.

Three local authorities received grant funding and expert support to run citizens' assemblies, allowing LAs to convene a randomly selected but representative sample of residents to deliberate, reach consensus, and make recommendations on a difficult issue that the LA has to make. Digital platforms were used to improve the reach, accountability and transparency of the process in each area.

We are expecting the independent evaluation of the Innovation in Democracy Programme in May, which will set out the key learning from the programme and its impact on citizens' assembly participants, the participating councils and the actions that the councils will be taking as a result.

In terms of next steps, future work is still in the planning stages but we will be looking at how we can build on the learning from this programme to inform our future work in the Office for Civil Society on civic empowerment and citizen voice.

Miscellaneous

17. What is the Government doing to encourage co-operation between regulators and to improve their digital capacity? Are the Government concerned about the number of regulators that are active in this space and that there may be regulatory overlap or exploitable gaps between regulators? (DCMS)

Government is committed to a coherent approach to governing digital technologies which promotes innovation.

As part of this, the Government is carefully considering how our existing regulatory structures can be strengthened and adapted to meet the challenges of the digital age. We will be working closely with existing regulators to understand whether there are opportunities to strengthen strategic and operational coordination between them, and the most effective mechanisms through which this can be achieved. We will also be considering the potential benefits of a broader reform of the regulatory landscape to support an effective overall approach to the regulation of digital.