

Written evidence submitted by the Independent Media Association

Digital, Culture, Media and Sport Sub-committee on Online Harms and Disinformation Call for Evidence:

Online safety and online harms

Submission of the Independent Media Association

About the Association

1. The Independent Media Association¹ is a representative organisation which promotes the work of media titles which are independent of political control and of the largest media corporations.
2. All Association members must be either independently regulated or agree to abide by the NUJ journalists' code.
3. While all our members must meet these requirements to verify their commitment to fact-based, ethical journalism, they otherwise vary significantly and are drawn from the breadth of the news media industry. They include national and international titles, local and hyperlocal titles, special interest, investigative and other titles.

Call for Evidence, Question Five:

Are there any contested inclusions, tensions or contradictions in the draft Bill that need to be more carefully considered before the final Bill is put to Parliament?

4. Our submission responds to this question only.
5. In our view, the bill's definition of a "recognised news publisher" is irrational and unfairly excludes independent publishers.

The definition of a "recognised news publisher"

6. Clause 40 defines a non-broadcast recognised news publisher with the following criteria:
 - (a) has as its principal purpose the publication of news-related material, and such material—
 - (i) is created by different persons, and
 - (ii) is subject to editorial control,
 - (b) publishes such material in the course of a business (whether or not carried on with a view to profit),
 - (c) is subject to a standards code,
 - (d) has policies and procedures for handling and resolving complaints,
 - (e) has a registered office or other business address in the United Kingdom,
 - (f) is the person with legal responsibility for material published by it in the United Kingdom, and
 - (g) publishes—

¹ <https://www.ima.press/>

*(i) the entity's name, the address mentioned in paragraph (e) and the entity's registered number (if any), and
(ii) the name and address of any person who controls the entity (including, where such a person is an entity, the address of that person's registered or principal office and that person's registered number (if any)).*

7. The significance of this definition is that it is relied upon to exempt content first-published by news publishers from the effects of the bill, in respect of how search service providers and user-to-user service providers fulfil their regulatory responsibilities under the terms of the bill. As such, any publisher which meets this definition will find that their content is exempt from technology companies' new obligations to address harmful content. Any publisher which does not meet these criteria will not benefit from that exemption.

The definition is discriminatory

8. Dozens if not thousands of independent publishers are bound to fall short of these requirements, despite being committed to the highest ethical standards.
9. For example, many independent publishers do not have a registered address (a significant expense for a smaller or local outlet), and others are run by a single person. These requirements directly discriminate against independent publishers, which do not benefit from the financial advantages of corporately owned titles which allow them to run an office and hire a team of staff.

The definition is arbitrary and irrational

10. Further, the only reasonable rationale for exempting news publisher content in this way is that it has already been subject to some form of regulation. Yet these criteria make no substantive requirements of regulation at all. They require a standards code and a complaints process, but give no detail as to what these must entail. The code of a qualifying publisher may, for example, be perverse and the process may be biased. Such requirements, without further detail, are meaningless and would allow publishers to qualify for the exemption on a wholly arbitrary basis.
11. All manner of publishers will benefit from this exemption provided these irrational criteria are met. These may include unregulated titles, extremist titles, and others.
12. On the other hand, there are dozens of publishers regulated to the highest ethical standards in the UK: those of IMPRESS, the UK's only independent regulator, who would not benefit from this exemption because they do not meet these arbitrary criteria.

This definition risks exposing the public to harm

13. The definition is also likely to take in publications which could be responsible for serious harm. For example, among the harms the bill ought to address is racial hatred on social media. Yet, because the definition makes no meaningful requirements of regulation, it risks allowing content published by hateful publications to be exempt.

14. Both the IMPRESS Code and the NUJ Code outlaw all forms of discrimination (including group discrimination), but the Editors' Code used by IPSO does not and neither do the codes of other publisher-managed complaints-handling systems.
15. This is a bill designed to tackle online harm, including racial hatred. It would be wrong to exempt publishers which are under no regulatory obligation to avoid publishing discriminatory content, while failing to exempt publishers which have committed themselves to refrain from publishing such content through independent regulation.

Summary

16. The bill's definition of a news publisher is arbitrary and irrational. It discriminates against local, hyperlocal and other publishers with less resources, would cause unregulated news publishers to be treated more favourably than regulated publishers, and risks exposing the public to serious harm. The definition should be redrafted to explicitly ensure that publishers which abide by ethical standards are able to benefit from the exemption.