

Written evidence submitted by Action for Primates and Lady Freethinker (OSB 0139)

Introduction

1. This submission is made on behalf of two animal protection organisations, Action for Primates (AfP) and Lady Freethinker (LFT). AfP is a British NGO and LFT is a US NGO. Each has been campaigning against the dissemination of animal abuse videos on the internet and the role of online platforms.
2. AfP and LFT are members of the Asia for Animals (AfA) Coalition. The AfA Coalition has an extended network of hundreds of NGOs, including many of the leading animal protection organisations in the world. Its core members include the RSPCA and the Born Free Foundation. The Coalition has set up a working group, the Social Media Animal Cruelty Coalition (SMACC), which in August 2021 published a report *Making Money from Misery: How Social Media Giants Profit from Animal Abuse* (the SMACC report).¹ AfP and LFT are core members of SMACC, along with international organisations such as World Animal Protection (WAP) (a UK NGO) and Humane Society International (a US NGO).
3. Much of the online animal abuse content – but by no means all – is filmed in Asia and then disseminated worldwide via the internet, including of course the UK. Hence the particular interest of NGOs operating in Asia. We understand that the AfA Coalition has made a brief submission to the Scrutiny Committee
4. The dissemination of online animal abuse content is a massive and growing problem. Online platforms do very little to stem the flow, either proactively (in accordance with their policies) or reactively (when a complaint is made under those policies).
5. Children and other vulnerable groups are as able to access animal abuse videos as anyone else. The videos are likely to cause them considerable psychological damage.
6. As with the AfA Coalition, AfP and LFT believe that online animal content should be brought explicitly within the scope of the Online Safety Bill (the bill). Given the scale of the problem, discussed below, the British public would expect nothing less.

Executive summary

7. In summary:
 - i. Animal abuse videos, disseminated online, are a blight on the conscience of humanity. They involve unimaginable cruelty to animals on a widespread and growing scale

¹ <https://www.asiaforanimals.com/smacc-report>

- ii. The UK is a leading viewer of the videos, and they are also filmed here in significant numbers
- iii. Online platforms have shown themselves unwilling to police and enforce their own guidelines; instead, they adopt a laissez-faire attitude and are reluctant to engage with animal protection NGOs
- iv. Both the platforms and producers of the videos make large sums of money from the videos
- v. AfP and LFT support the principles of the bill. However, it is essential that animal abuse videos are explicitly brought within the scope of duties imposed on platforms
- vi. Were this not to happen, the UK would risk falling behind the EU in the regulation of online platforms, contrary to the Government's oft-repeated promises that, post-Brexit, animal welfare standards will be maintained and enhanced
- vii. As with children and vulnerable adults, there is a patchwork of other legislation which can be prayed in aid in some circumstances. But far better to have a single, coherent legislative code setting out clearly the responsibilities on internet service providers. That, indeed, is the point of the bill.

Animal abuse videos

- 8. By 'animal abuse videos' we mean videos showing gratuitous cruelty to animals, where the cruelty was perpetrated with a view to the footage being shared on online platforms, often for reward.
- 9. We exclude footage taken or shown in the public interest to expose those responsible for cruelty to animals, as with an undercover investigation. Indeed, the dissemination of such material can be seen as coming within the (qualified) right to freedom of expression which the bill rightly seeks to protect.
- 10. One type of video involves fake rescues, where an animal is placed in apparent danger – thereby causing a high level of stress – only to be 'rescued' by the perpetrator. Fake rescues not only cause immense suffering to animals but also represent a fraud on the viewing public. Other videos involve animal fighting or forcing animals to undergo sexual acts. The type of abuse is almost limitless. It appears that some of those viewing the videos may obtain sexual gratification.

Examples of animal abuse videos

- 11. Each of the reports set out below contains numerous examples of animal abuse videos. Any number of egregious examples could be given. The following are a sample only of the litany of abuse (video links can be provided):

- *Baby Monkeys Are Trapped, Caged, & Chained (Dr PoPo)*

Various monkeys are shown chained up, trapped in cages, and abused. Commenters claim to enjoy the abuse. 'Who doesn't want to grab a cage with six of them and shake the shit out of it?', asked TFS Controller. 'This is heaven', said Freyha. 'There's only one sad part, it's when they feed them. They should be starved'. The video was uploaded in April 2020. It is still active and has reached more than 150,000 views.

- *Pambano Kali Chatu na paka Python Vs Cat Fight as save her babies From python attack (Jenafa TV)*

A snake slithers into a hole where a mother cat and her kittens are laying down. The snake curls up next to the kittens, while the mother cat strikes and scratches the animal. Later, two boys come to 'save the day' poking and provoking the snake right next to the kittens. The mother is clearly distressed, and eventually, the snake is pulled away. The video was uploaded in March 2021. It is still active and has reached more than 5,400 views.

- *Nyani na joka wakibatuana brave boys saved monkey from python constrictor (Jenafa TV)*

Two boys 'discover' a monkey wrapped up by a snake. As the snake squeezes the distressed monkey, the boys work to unwrap him. The video was uploaded in September 2020. It is still active and has reached more than 62,000 views.

- *Baby monkey shaking from fear, poor baby (28Merits Lucky)*

A baby monkey is violently shaken. Commenters claim to enjoy the abuse and encourage the uploader to abuse the monkey further. 'This is absolutely the funniest thing I've seen in a long damn time', said Bryan French. 'Stop teasing the little thing and tape him to the board', said The Criticiser. 'Can't you tell how excited he is to get on with it'. The video was uploaded in January 2020. It is still active and has reached nearly 100,000 views.

- *Baby RAT gets gutted (Ratpatootie)*

A monkey is shown dying on the ground with half of his intestines falling out of his body onto the dirty ground. The camera films as the monkey slowly dies. The video was documented in May 2020 and removed in November 2020. It reached more than 40,000 views.

- Other monkey videos feature even harsher physical and psychological abuse: a very sick monkey is buried, live, up to their neck by a person exaggeratedly screaming; two infants are trapped in a small cage which is progressively submerged in water while they huddle at the top of the cage; other infant macaques are brought into deep water and watched as they struggle to stay afloat

- *Primitive Boy Saves Family Cat From Python Attack - Family Cat Vs Python (BD Wildernass)*

A cat is stuck in a hole while a python approaches. The cat scratches at the snake in self-defence, while the snake strikes at the cat. The cat ends up back in the hole multiple times in the video. Then, kittens appear in the hole, and the snake attacks them. The video was uploaded in August 2021 and is still active.

- *Primitive Man Saves Grey Puppy From Python Attack - Most Amazing Wild Animal Attack (Wilderness Channel Rescue)*

A helpless puppy is attacked by a snake. The puppy is backed into a corner, and the snake strikes. Then, the snake constricts the puppy before someone finally arrives to 'save the day'. The video was uploaded in April 2021 and removed in June 2021.

- *Brave Two Boys Rescue Two Ducks From Python Attack-reat Saves Ducks From Snake Attack (Daniel Rangel)*

A snake attacks two ducks swimming in a river. The ducks are constricted and nearing death when two little boys rescue them, pulling the snake off of them in the water. The video was uploaded in August 2019 and is still active.

Three recent reports

12. There have been three recent reports about animal abuse videos: (i) LFT's 2020 report *YouTube: Profiting from Animal Abuse* (the LFT report) ²; (ii) the SMACC report; and (iii) WAP's *Views that abuse: The rise of fake "animal rescue" videos on YouTube* (collectively 'the reports'). ³

13. As part of its methodology, LFT searched YouTube for animal abuse videos in April and May 2020, revisiting the videos in July 2020, and found nearly 1.2 billion views of roughly 2,000 videos glorifying animal. LFT used a number of keywords to identify the videos. ⁴

14. 91% of the videos were still live on YouTube at the end of the investigation. Only 185 of the videos were removed, accounting for some 136 million of the 1.2 billion views. The animals used were wildlife, companion animal and farmed animals. Over 70% of the videos were still live, several months later, with over 700 million views.

² <https://ladyfreethinker.org/wp-content/uploads/2020/12/Lady-Freethinker-Report-YouTube-Profits-From-Animal-Abuse.pdf>

³ https://dkt6rvnu67rqj.cloudfront.net/cdn/ff/c1Fmr-ttE13g_y3asoNQNJOGNMT9YbmKeHVVbqCxAb0/1625064348/public/media/ViewsthatAbuse-YouTubeReport2021.06.28.pdf (June 2021)

⁴ Videos involving farmed animals display graphic, violent actions toward animals, deliberate cruelty not filmed as part of an undercover investigation or cockfighting. Videos of hunting only qualify where other animals (usually dogs) are used to hunt other animals

15. LFT sent the report to YouTube's US headquarters. YouTube failed to respond and has refused several requests for a meeting, most recently following a letter in July 2021 from Advocates for Animals.
16. The report was featured in the UK national newspaper *The Guardian* on 19 December 2020.⁵
17. Since it was published, LFT has continued to monitor videos on YouTube. For example, it identified well over 400 videos in April and the first half of May this year, with tens of millions of views. These include fake rescues and monkey torture.
18. The authors of the **SMACC report** explain that, between 2020 and August 2021, they examined 5,480 instances of animal cruelty content found on either YouTube, Facebook or TikTok (other platforms hosting animal abuse videos include LinkedIn, Vimeo and, Snapchat). The report explains that these videos represent a miniscule proportion of those available online.
19. At the time of writing, the videos had been viewed a staggering 5,347,809,262 times (nearly five and a half billion). The videos included kittens and other young animals set alight as the filmmakers laughed, live burials, drownings, beatings and various forms of psychological torment. Cruelty content has been shared on channels that have up to 45 million followers each. All the videos are publicly available.
20. The species featured were wide-ranging, including various types of birds, dogs and cats, wild boar and pigs, snakes and primates. Monkey hatred, especially focusing on baby monkeys, is a widespread problem that has been circulating for years on social media platforms. 703 out of 5,480 videos examined by SMACC involved primates. There are channels on YouTube that exist solely to promote and post videos of monkey suffering, with videos showing monkeys injured, abused, or dying. These channels have become meeting places where people leave vile and abusive comments encouraging more violence towards monkeys. Other targets include stray dogs. Wildlife classified as threatened by the International Union for Conservation of Nature and Natural Resources such as pangolins, siamangs and tigers feature.
21. An experienced veterinarian, Dr Nedim Buyukmihci, is quoted as saying:

'As a veterinarian, I am shocked by the acts of cruelty and abuse inflicted on non-human primates and other non-human animals that are being filmed for broadcast on social media platforms such as YouTube, Facebook and TikTok. Deliberately and gratuitously causing pain, fear and distress to these animals is morally reprehensible. No video-sharing platform should tolerate animal cruelty for any reason. By permitting such content on their platforms, these companies are not only promoting animal cruelty and abuse, they are effectively encouraging its continuation by not blocking perpetrators and reporting them to the relevant authorities for investigation

⁵ <https://www.theguardian.com/world/2020/dec/19/youtube-must-remove-videos-of-animal-cruelty-says-charity>

22. The **WAP report** focused on fake rescues. It found:

'In total, we found over 181 different fake animal rescue videos published on YouTube between October 2018 and May 2021. The 50 most viewed videos alone had collectively been viewed 133.5 million times and secured 13 million subscribers to their channels.

Despite YouTube's public pledge on March 25th 2021 to address this animal abuse, between March 26th and June 1st 2021 we identified an additional 47 videos, posted across 15 different channels, that had already collectively acquired over 7 million views and 2.7 million subscribers on YouTube ...'.

23. Nick Stewart, Global Head of Wildlife Campaign at WAP, commented:

'What makes fake "animal rescue" content even worse is its duplicitous nature – what these videos portray is exactly the opposite of what is happening. Animals are deliberately being put in harm's way'.

The UK dimension

24. Of the 5,480 videos the subject of the SMACC report, it was not possible to identify the country or region or region of filming in 2,414 cases. Of the remainder, 29 were filmed in the UK. The acts of cruelty no doubt breach UK animal protection legislation but detection is difficult and conviction rates consequently low.

25. Similarly, it was not possible to tell where 2,495 of the videos were uploaded. Importantly, of the remainder, 285 were uploaded in the UK, the third highest country.

Monetisation

26. In its report, LFT estimated that, when monetised, the videos could earn the makers of the videos nearly \$15 million and YouTube itself over \$12 million in advertisement revenue alone. ⁶ YouTube has a pay-per-view monetisation model. Its Partner Programme encourages content creators to monetise their channels, provided they comply with YouTube policies (although a great many do not).

27. Advertisements are usually embedded in cruelty content which has been monetised. SMACC found such advertising for numerous organisations, including, inadvertently, for animal welfare and conservation charities. The most popular content is likely to become monetised, by having advertisements placed in it. LFT found that hundreds of videos with over 100,000 views each displayed advertisements – one had more than 54 million views.

The damage caused to viewers of animal abuse videos

⁶ Based on what is described as an average taken from a *Business Insider* survey:

<https://drive.google.com/drive/folders/1HCEVK-R6bdHZIJA4tbe-vWBr69Fo2rZ>

LFT's methodology was as follows. The average was taken from all 16 YouTube stars mentioned in the Business Insider report. From those numbers, LFT calculated a CPM (cost per 1,000 views). The report states that YouTube takes 45%, with the remainder paid to the creators. The average cost per 1,000 views was \$12.50, or \$0.0125 per view, for the creators. LFT then extrapolated YouTube's 45% share (around \$10.20 per 1,000 views)

28. Many viewers may chance across the videos and are likely to be distressed by what they see. A report commissioned by the RSPCA in 2018 found that 23% of 10- to 18-year-olds had seen animal cruelty on social media sites.⁷
29. Another survey asked 10,000 nine- to 16-year-olds in Europe what bothered them most about what they see online. The authors concluded that ‘what particularly upsets children are images that portray vulnerable victims – animals, disabled people and victims like themselves, i.e. children’.⁸
30. Many viewers, of course, access the videos deliberately and obtain perverse pleasure, even sexual gratification, from viewing them. Importantly, however, the House of Lords, then the highest court in the country, recognised in an Obscene Publications Act prosecution⁹ that even this group could be further ‘depraved and corrupted’ by watching obscene material.
31. Fake rescues are not only cruel but practise deception on viewers, often for monetary gain.
32. Children and vulnerable adults may be exploited in the making of animal abuse videos. The SMACC report cites a video, entitled *How we treat primates: the parents just don’t care*, of a child repeatedly hitting a monkey. The video had received over 86,434 views.

Lack of enforcement

33. Social media platforms have guidelines for the posting of videos which they claim to enforce. YouTube, for example, has a *Animal abuse or violence* section within its *Community Guidelines*.¹⁰ The section is far from perfect but the real problem is that the company does very little to enforce it. It claims to monitor content, both proactively (via algorithms and human review) and reactively (following a complaint). The experience of all the animal protection organisations working in this area is that proactive enforcement is almost non-existent and that the company often acts reactively only when it fears adverse media publicity. Videos clearly breaching its guidelines are left online, available to all, for months after a complaint. The reports give numerous examples and statistics. YouTube refused to allow LFT to be one of its ‘trusted flaggers’, despite the NGO’s experience in the area.
34. The problem is not confined to YouTube but is endemic. The SMACC report gives an example where Facebook failed to remove an obviously fake rescue video drawn to its attention.¹¹

⁷ https://www.rspca.org.uk/-/16_10_18_genkind

⁸ Livingstone, S., Kirwil, L., Ponte, C., & Staksrud, E. (2014). *In their own words: What bothers children online?* *European Journal of Communication*, 29(3), 271–288 <https://doi.org/10.1177/0267323114521045>

⁹ *DPP v Whyte* [1972] AC 849

¹⁰ https://support.google.com/youtube/answer/2802008?hl=en&ref_topic=9282436

¹¹ p43

35. It is clear that self-regulation is not working, with animal abuse videos as with other harmful internet content. Hence the need for legislation.

Inadequacy of existing law

36. There are, indeed, a number of challenges with using the law to stop animal abuse videos using existing law. First, online distribution is global in nature, and different countries where videos are filmed, uploaded and watched/shared may have different laws for these activities. Second, the abuse may not be illegal in the country where it took place (and watching/sharing it may not be illegal in that country). Third, social media companies are keen to argue that they are mere platforms and are not responsible for content.

37. The challenges exist in other areas too. Hence the need for a coherent legislative code specifically addressing the role of online platforms.

Analysis of the bill

38. The preamble to the bill reads:

'A Bill to make provision for and in connection with the regulation by OFCOM of certain internet services; and to make provision about and in connection with OFCOM's functions in relation to media literacy'.

39. That is, clearly, sufficiently broad to encompass online animal abuse videos. The problem lies with some of the detail in Part 2 (providers of regulated services: duties of care).

40. Clause 2(1) defines 'user-to-user service' as 'an internet service by means of which content that is generated by a user of the service, or uploaded to or shared on the service by a user of the service, may be encountered by another user, or other users, of the service', and subsection (2) explains that the reference to content which may be encountered by other users includes content which is capable of being shared with other users by operation of the functionality of the service that allows the sharing of content ('functionality' is defined by clause 135 and 'content'¹² and 'encounter'¹³ by clause 137). It is with user-to-user services with which LFT and AfP are primarily concerned, although 'search services' are also relevant.

41. Clause 5(2) then says that all providers of regulated user-to-user services must comply with a number of duties, including the illegal content risk assessment duty under clause 7, the illegal content duties under clause 9 and the duties about reporting and redress under clause 15.

¹² 'anything communicated by means of an internet service, whether publicly or privately, including written material or messages, oral communications, photographs, videos, visual images, music and data of any description'

¹³ 'in relation to content, ... read, view, hear or otherwise experience content'

42. Clause 9 sets out the illegal content duties. These include a duty to take proportionate steps to mitigate and effectively manage the risks of harm to individuals (as identified in the most recent illegal content risk assessment of the service) (subsection (2)) and, by subsection (4), a duty to specify in the terms of service how individuals are to be protected from illegal content, addressing each paragraph of subsection (3) (which includes a duty proportionately to minimise the presence and dissemination of ‘priority illegal content’, to be defined in regulations,¹⁴ and swiftly to remove illegal content to which a provider is alerted).
43. Under clause 41(2), ‘illegal content’ with regulated user-to-user service consists of ‘regulated content’ (as defined by clause 39(2)) which amounts to a ‘relevant offence’. Apart from terrorism and child sexual exploitation and abuse (CSEA) offences,¹⁵ ‘relevant offence’ means an offence specified in regulations (subsection (3)) or other offences where the victim or intended victim is an individual(s) (subsection (4)).¹⁶ ‘Offence’ is defined by subsection (9) as an offence under the law of any part of the UK.
44. Although it is not defined by the bill,¹⁷ it is likely that ‘individual’ in subsection (4)(d) is intended to refer to human beings. AfP and LFT believe that it should be extended to animals. That would be consistent with the panoply of UK legislation which seeks to protect animals. The maximum term of imprisonment for the principal offences under the Animal Welfare Act 2006 has just been increased to five years, indicating the seriousness with which Parliament regards such offences.¹⁸ The treatment of animals shown in animal abuse videos would undoubtedly fall within those offences were it to take place here.
45. Human beings, as has been seen, can be adversely affected by animal abuse videos – where they chance upon a video and are distressed by it or where they are taken in by a fake rescue and perhaps part with their money as a result – but the primary victims are, of course, the animals.
46. It is absolutely right that CSEA offences receive particular attention in the bill. However, the vast majority of people also find abhorrent sexual offences involving animals. Indeed, section 63 of the Criminal Justice and Immigration Act 2008 makes it an offence to possess an ‘extreme pornographic image’ and that is defined as extending to images of ‘a person performing an act of intercourse or oral sex with an animal (whether dead or alive)’.¹⁹ Parliament has thereby recognised the public’s abhorrence of this type of animal exploitation. Other offences involving children (or adults) are caught by paragraph (d) of the definition of ‘relevant offence’: there is a glaring lacuna in relation to animals.

The UK should not fall behind the EU

¹⁴ See clause 44(5)(c)

¹⁵ See clause 43 and schedule 3

¹⁶ The Explanatory Notes give the examples of revenge pornography, the sale of illegal goods, and upskirting (para 252).

¹⁷ Or the Interpretation Act 1978

¹⁸ Animal Welfare (Sentencing) Act 2021

¹⁹ Section 63(7)(d)

47. The Explanatory Notes ²⁰ explain that, prior to the UK's exit from the EU, the legal framework for the regulation of online services was primarily set out in the Directive 2000/31/EC (the e-Commerce Directive). ²¹ The European Commission has recently published Proposals for a Digital Services Act (the DSA) ²² and a Digital Markets Act (DSM), ²³ designed to update the e-Commerce Directive and reflect the development of the internet since the turn of the century and the enormous power of online platforms (for good or ill).

48. The DSA and DSM are not on all fours with the bill but they do extend to content involving animals and it would therefore be odd if the UK legislated in a way which did not specifically include animal abuse videos. This is particularly since the Government has made it clear that 'now that we have left the EU, the UK has new freedoms to further strengthen animal welfare standards and reinforce its position as a global champion of animal rights'. ²⁴ The Government cannot be a global champion of animal rights if it needlessly ignores a huge and growing vehicle for animal abuse which directly affects UK citizens and which the online platforms have shown a singular lack of will to address.

Conclusion

49. AfP and LFT support the principles of the bill. However, in their respectful submission it is vital that explicit provision is made to address online animal abuse content.

27 September 2021

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/985031/Explanatory_Notes_Accessible.pdf

²¹ Para 17

²² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020PC0825&from=en>

²³ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020PC0842&from=en>

²⁴ *Action Plan for Animals* (12 May 2021) <https://www.gov.uk/government/news/uk-to-lead-the-way-on-animal-welfare-through-flagship-new-action-plan>