

Written evidence submitted by Baroness Floella Benjamin, DBE (OSB0161)

Summary

I wish to submit evidence to the Joint Committee on the draft Online Safety Bill because I have dedicated the last 45 years of my life to the wellbeing of children.

I have been raising concerns about the impact of media on children for many years. Earlier in the year, I raised this again in the context of the Domestic Abuse Bill and argued strongly for Part 3 of the Digital Economy Act 2017 (DEA) to be implemented without delay to ensure protection for women and children.

I raised my concerns about the Government's plans for regulating online safety then and continue to believe that they fall short of what is required.

So I urge the Committee to recommend reform of the Bill to ensure that the Online Safety Bill matches the regulatory framework for commercial pornographic websites of the DEA, as well as encompassing social media.

Context

Currently, the lack of regulation for social media and online pornography websites in the UK, means that children have unfettered access to harmful material and women and girls continue to be placed at risk from abuse, violence and harm that results from the ever-increasing proliferation of online pornography.

For most children, the internet has become an indispensable tool for education and daily life. However, with little regulation in place protecting them, many are exposed to easily accessible and free pornographic websites. It is estimated that each month, around 1.4 million children access pornography in the UK. Many are signposted to commercial pornography sites through social media.

For many young people, pornography is their main reference point for relationships. Children in the UK are developing a view of sex and relationships that is devoid of context, especially in relation to consent and violence. Research shows that pornography has a wide impact on the development of children and young people including: poor mental health; sexism and objectification; sexual aggression and violence; child-on-child sexual abuse and the shaping of future sexual behaviour.

I am also concerned with the increase in violence against women and girls and the role of pornography in perpetuating that violence.

In the light of the Sarah Everard case, women from all over the UK have shared their stories highlighting that a large proportion of attacks on women are motivated by sexual violence.

Access to pornography plays a significant role in increasing this violence against women. In 2018, the Select Committee on Women and Equality reported on pornography's impact on

women and girls in public places and concluded, *“There is significant research suggesting that there is a relationship between the consumption of pornography and sexist attitudes and sexually aggressive behaviours, including violence.”*

I raised these issues during the debates on the Domestic Abuse Bill earlier in the year and quoted from the Government’s own research that, *“... there is substantial evidence of an association between the use of pornography and harmful sexual attitudes and behaviours towards women”*.

While the report recognises that pornography is one amongst potential factors, *“it is clear that a relationship does exist and this is especially true for the use of violent pornography”*. I am especially concerned about the links between violent pornography and rough sex.

In a 2019 survey of 2002 women conducted for Radio 5 Live, women reported differing levels of violence during sex. Of these incidents 53% were reported as unwanted some, most or all of the time they occurred; 20% reported that the experiences left them feeling upset or frightened at least once; 42% of the women felt pressured, coerced or forced some, most or all of the time they occurred. In February 2020, a similar survey was conducted with 2049 men asking them similar questions. 57% of the men said that they were influenced by pornography either to some extent or a great deal. 20% said “a great deal”.

Part 3 of the Digital Economy Act 2017

Given the significant and ongoing harm to children and the clear linkage between increased violence against women and pornography, it is indefensible for the government to have failed to implement part 3 of the Digital Economy Act 2017. Had this Act been implemented by the end of 2019, as the government had planned, to very significant protections would have come into place:

First, children would be protected from access to pornographic website by the implementation of statutory age verification, together with a robust enforcement mechanism against any sites seeking to access the UK without robust age verification.

Second, a robust regulator would have been in place to require internet service providers to block any site showing extreme pornography, regardless of age verification. Extreme pornography is the most violent sub-category of pornography and normalises violence against women. As I observed in Parliament there were multiple newspaper reports saying that Wayne Couzens who confessed to the murder and rape of Sarah Everard was obsessed with extreme pornography.

As someone who participated in the Urgent Question debate on 17 October 2019 in response to the Government announcing it would not implement Part 3, you will be keenly aware of the years of potential protection lost between 2019, today and 2024/5 when any new primary and attendant secondary legislation is ready for implementation.

The Minister, Matt Warman MP responded to that debate saying that waiting for the new legislation would be better but just take ‘slightly longer’ and that the new legislation with be

published 'in the New Year', i.e. January 2020. As you know it took eighteen months and then there was a further delay so, despite being published in May 2021, the pre-legislative scrutiny is only really getting going now and will not be complete until the end of the year.

I welcome the Government's interest in developing legislation to address other online harms but that cannot be an excuse for not implementing the legislation that Parliament has already passed and which the Age Verification Providers Association is completely clear could be implemented if there was a political will to do so.

During the passage of the Domestic Abuse Bill through the Lords, I repeatedly called in the Government to implement Part 3 as an interim measure while developing new online legislation to address other online harms, including pornography on social media.

On the 7th May, moreover, I and a group of over 60 other parliamentarians, women's organisations, headteachers and children's charities, wrote to the Prime Minister calling on him to urgently implement Part 3 of the Digital Economy Act which could provide meaningful protections years before any Online Safety Act together with its attendant secondary legislation is ready.

I was encouraged that for the very first time the Government recognised a problem with their policy of delaying introduction of protections for children and women, when on 10th June 2021 the Minister, speaking in the House of Commons during an oral statement commenting on the Ofsted review of sexual abuse in schools and colleges said, "*The Online Safety Bill will deliver a ground-breaking system of accountability and oversight of tech companies and make them accountable to an independent regulator. The strongest protections in the new regulatory framework will be for children, and companies will need to take steps to ensure that children cannot access services that pose the highest risk of harm, such as online pornography. In addition, the Secretary of State for Education and the Secretary of State for Digital, Culture, Media and Sport have asked the Children's Commissioner to start looking immediately at how we can reduce children and young people's access to pornography and other harmful content. **That work will identify whether there are actions that can be taken more quickly to protect children before the Online Safety Bill comes into effect.***" (emphasis added) On 30th August 2021 the Daily Mail reported that the Children Commissioner has now come forward with a proposal about what to do before the Online Harms Bill becomes law. The article states that Dame Rachel 'suggested fast-track new legislation in the autumn, requiring commercial porn sites to verify ages and to create a voluntary code of practice for social media companies.'

I have long been an advocate for age verification for online pornography. It is absurd that material that would not be available to children offline, because they are age verified, should not be regulated in a similar way online. We restrict the sale of some goods to children on the high street (including pornography) and we require shops to verify the age of the person accessing that material. It should not be considered radical that we require exactly same regulation for accessing material online.

In this context and given the advice of the Children's Commissioner for England, I believe that the minimum the Government can do is to now implement Part 3 of the DEA as an interim measure and would urge you to impress this upon them.

The Draft Online Safety Bill

I support the principle of further online safety legislation, but I have significant concerns about the Draft Online Safety Bill. It appears to me that the Bill represents a significant backwards-step from the provisions of the DEA.

In the first instance, and of huge concern, there is no explicit requirement for websites to introduce age verification on the face of the Bill.

In the second instance, while it is welcome that the Bill addresses social media, as well as pornographic web sites, the effect of the manner in which this is achieved is to remove some pornographic websites that were covered by the DEA from the Bill.

The Bill focuses on providers with user-to-user generated content, while the DEA regulated all commercial pornographic websites. I fear that if the Bill is enacted without amendment, commercial pornographic websites (which fall under regulation of the DEA) that do not allow user generated content, will not be covered by this draft legislation.

In attempting to address the issues presented by social media the government has effectively sought to water down protections afforded under part 3 of the DEA. Social media platforms require different legislation and regulation from pornographic web sites as they present a different problem to that posed by commercial pornography websites. The latter only deals with pornography.

The former is more complicated because in addition to carrying pictures of family holiday's, meals out etc, it can also carry pornography. That is why part 3 of the DEA should be implemented immediately, to regulate those websites that host pornographic material, while different and potentially more flexible legislation is developed to regulate social media.

In addition, it is concerning that there is also no reference to the regulator acting against sites that contain extreme pornographic material which is referenced on the face of the DEA but not on the face of the Online Harms Bill.

Without the above provisions, the Bill would be a significant retrograde step with respect to the regulation of online pornography. Under the Bill large pornography websites, which are covered by the DEA, are likely to continue operation unregulated and without owing a duty of care to children and women.

I am also concerned that not all pornographic websites which fall under the regulation of the Bill will be treated the same. The draft Bill is vague on what criteria will be used to determine which category a website falls under and how those websites falling into different categories will be regulated. This is particularly concerning as some

websites which would have been required to implement age verification under the DEA, may not be regulated in the same way by the draft Bill. Indeed, as noted above, there is no explicit requirement for websites or apps to introduce age verification on the face of the Bill.

It would clearly be preferable for all websites that host pornographic content to be treated in the same way and subject to age verification and subject to blocking if they do not provide age verification, and or if they show extreme pornography, as applicable under the DEA. It would be unacceptable for legislation to be brought to parliament that is less robust in protecting women and children than legislative provisions already on the statute books.

It is my view that:

1. As an interim measure, part 3 of the DEA should immediately be implemented.
2. The Bill should regulate the particular challenges of social media without negating the regulation of pornographic websites as set out in part 3 of the DEA
3. What is and is not covered by the Bill should not be subject to secondary legislation and regulations. What is covered by the Bill and the type of website/social media company regulated by the Bill and the content they host should be clearly on the face of the Bill.
4. The requirement for age verification should be on the face of the Bill.
5. The requirement not to host extreme pornography should be on the face of the Bill.
6. The Bill must not repeal part 3 of the DEA until all the measures in the Online Safety Bill that cover regulation of online pornography have been implemented.

I look forward to participating in the debates as the Bill progresses through the House and working to ensure the Bill affords the necessary protections for children and women across the UK.

As I always say 'Childhood lasts a lifetime' so it's all our responsibility to ensure we give our children the best secure and happy start in life.

BARONESS FLOELLA BENJAMIN, DBE

17 September 2021