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Internet Matters submission to the Public Bill Committee for the Online Safety Bill

About Internet Matters

Internet Matters is an award winning, not-for-profit organisation dedicated to supporting parents and professionals to keep children safe and happy online. Half of parents have heard of us and almost 9 in 10 would recommend us.

In addition to providing resources and support, we produce leading research and policy insight to help ensure that digital participation contributes positively to children's lives. We are members of:

- The Executive Board of the UK Council for Internet Safety (UKCIS)
- DCMS's Media Literacy Taskforce Steering Board
- Ofcom's Making Sense of Media Panel
- ICO's Children's Advisory Panel

About this submission

Internet Matters has long supported the need for greater regulation of online services, alongside education for parents and carers, to improve children's experiences of digital life. The Online Safety Bill is a welcome development and we support its guiding aim to make the UK the safest place to be online, along with many of its specific provisions and measures.

Our submission is therefore limited in discussion to a single area where we believe the Bill could be significantly strengthened and therefore better serve the needs of young people and families. **This area is the Bill's treatment of content which is legal but harmful to children.**

The challenges with the current definition of content which is legal but harmful to children

The Bill addresses three kinds of content which is legal but harmful to children:

(1) Content designated as "primary priority content" – defined by the Secretary of State through regulations.
(2) Content designated as "priority content" – also defined by the Secretary of State through regulations.
(3) Content not specified through the above "which presents a material risk of significant harm to an appreciable number of children".

It is important that (3) is worded in such a way that it captures the full range of harmful content which children and young people may encounter online, as it is likely that only a limited number of content-types will be designated "primary priority" or "priority content". But in its current form, Internet Matters is concerned that (3) could fail to capture the full range of harms. **There are two challenges with the definition in (3):**

Firstly, the phrasing of "a material risk of significant harm". While the full meaning of this depends on its interpretation, it appears to set an undesirably high bar and significantly restrict the range of content which may be deemed to be legal but harmful to children.

This is important because it is unclear, and perhaps doubtful, that many of the concerns which young people and parents routinely raise with Internet Matters would fall under the scope of (3) as currently drafted. For example, in

March this year we conducted research[1] with young people aged 14-18 to better understand their online lives and gather feedback on the Online Safety Bill. Two areas of significant concern for young people were the amount of time they spend online and feelings of "addiction", and the impact of online services on body image (e.g. content promoting extreme diets or exercise regimes). It is arguable whether extreme body image content and content (or features) designed to lead to prolonged use of a service would meet the threshold of presenting a "material risk of significant harm".

Secondly, "an appreciable number of children". While again the interpretation of this is unclear, it appears to limit the scope of (3) to harms which affect large numbers of children. Yet research by Internet Matters and our academic partners consistently shows that children who are vulnerable offline are more vulnerable online.[2] This includes relatively small cohorts of children such as those in care and children with learning disabilities or eating disorders. Our most recent tracker survey (based on survey responses from 2,000 parents in December 2021) found significant gaps in the experience of harm between vulnerable children and their non-vulnerable peers:

Level of experience (%) for non-vulnerable and vulnerable children (reported by parents)
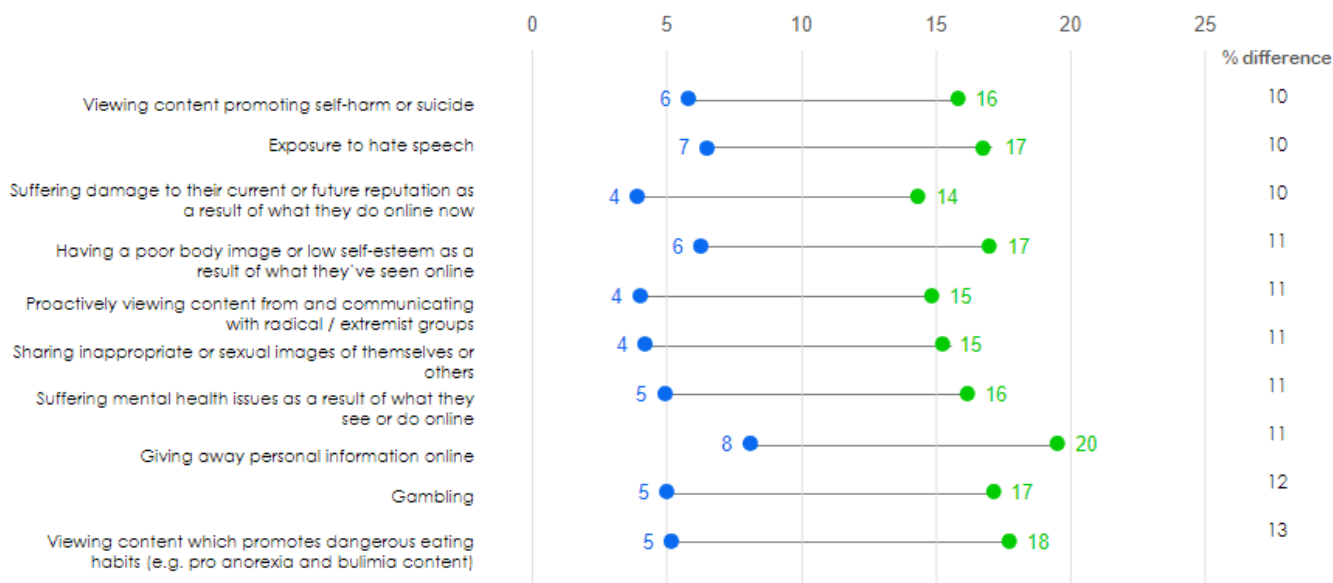
As it stands, there is a risk that content which is harmful to small groups such as these will fall out of scope, leaving these vulnerable children at even greater risk, when they are the ones who need better online protections the most.

Possible solutions

Internet Matters has identified two avenues for addressing the challenges outlined above.

1. **Tweaking the definition of non-designated content which is legal but harmful to children.**

Our primary recommendation would be to tweak the wording of (3) above, to widen the current focus on "material risk of significant harm" and "appreciable number of children".

One relatively simple way of doing this would be to look to the ICO's Age Appropriate Design Code – a set of 15 standards which many online service providers are already required to meet when processing children's data. The

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[1] 'Our Voice Matters' https://www.internetmatters.org/wp-content/uploads/2022/04/Internet-Matters-TalkTalk-Our-Voice-Matters-report.pdf
[2] See for example 'Vulnerable Children in a Digital World' https://www.internetmatters.org/about-us-3/vulnerable-children-in-a-digital-world-report/ and 'Refuge and Risk' https://www.internetmatters.org/wp-content/uploads/2021/01/Internet-Matters-Refuge-And-Risk-Report.pdf

first of these standards requires providers to take the "best interests" of the child as a "primary consideration" when designing services which children are likely to use. Furthermore, throughout the remaining 14 standards there are a number references to the need to consider children's "wellbeing".

The definition of (3) could be re-drafted to incorporate the language of "best interests" and "wellbeing" rather than being focused solely on significant harm. This would not only bring the scope of the Bill in line with the real concerns of young people and families, but it would also achieve greater regulatory alignment, therefore reducing the burden on service providers to meet obligations they have under both regimes.

Alternatively the Bill could draw from the definition of harmful content in Ofcom's existing Video-Sharing Platforms (VSP) regulations, which providers, including Twitch and TikTok, are currently required to meet, until the measures in the Online Safety Bill come into effect. The regulations require providers to take appropriate measures to protect children from material which "might impair the physical, mental or moral development of under-18s". Content which does not meet the threshold of "significant harm" might nevertheless harm children's development, meaning VSP regulations set a lower bar for content which is legal but harmful.

2. **Ensuring that all relevant harms to children, including those which fail to meet the bar set out in (3), are identified as "primary priority content" or "priority content", or are named on the face of the Bill**

An alternative to tweaking the definition of (3) would be to ensure that the lists of primary priority and priority content accurately reflect the full range of harms that young people experience, including harms related to overuse of online platforms as well as extreme body image content. Given these lists are in control of the Secretary of State, it would be incumbent upon the holder of that position to ensure this is achieved. Internet Matters would like to see strong assurances that the process for determining primary priority and priority content will be based on robust evidence and consultation with children and parents themselves.

A similar way of addressing the problems set out above would be to ensure that the full range of harms experienced by children are named on the face of the Bill itself. This would have the advantage of giving clarity to online services earlier in the process about the harms they will need to tackle.

While pursuing either of these options would be an improvement on the Bill's current treatment of content which is legal but harmful to children, there is a risk that any list of harms to children could quickly become out of date as technology develops. Therefore Internet Matters recommends that the definition of (3) is widened, as set out above. Note that this would not preclude the creation of expansive lists of primary priority and priority content, or naming a greater number of harms to children on the face of the Bill.