

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT ONLINE SAFETY (LIST OF OVERSEAS  
REGULATORS) REGULATIONS 2024

*Tuesday 9 January 2024*

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**Saturday 13 January 2024**

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**The Committee consisted of the following Members:**

*Chair:* MR CLIVE BETTS

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|--|--|
| † Afriyie, Adam ( <i>Windsor</i> ) (Con)   | † Monaghan, Carol ( <i>Glasgow North West</i> ) (SNP)          |
| † Bhatti, Saqib ( <i>Parliamentary Under-Secretary of State for Science, Innovation and Technology</i> ) | Russell-Moyle, Lloyd ( <i>Brighton, Kemptown</i> ) (Lab/Co-op) |
| † Burgon, Richard ( <i>Leeds East</i> ) (Lab)  | † Saxby, Selaine ( <i>North Devon</i> ) (Con)                  |
| † Champion, Sarah ( <i>Rotherham</i> ) (Lab)   | † Shelbrooke, Sir Alec ( <i>Elmet and Rothwell</i> ) (Con)     |
| † Evans, Chris ( <i>Islwyn</i> ) (Lab/Co-op)   | † Smith, Cat ( <i>Lancaster and Fleetwood</i> ) (Lab)          |
| † French, Mr Louie ( <i>Old Bexley and Sidcup</i> ) (Con)  | † Smith, Jeff ( <i>Manchester, Withington</i> ) (Lab)          |
| Fysh, Mr Marcus ( <i>Yeovil</i> ) (Con)  | † Webb, Suzanne ( <i>Stourbridge</i> ) (Con)                   |
| † Gibb, Nick ( <i>Bognor Regis and Littlehampton</i> ) (Con)   | Susie Smith, <i>Committee Clerk</i>                            |
| † Gibson, Peter ( <i>Darlington</i> ) (Con)  | † <b>attended the Committee</b>                                |
| † Lewer, Andrew ( <i>Northampton South</i> ) (Con)   |  |

# Third Delegated Legislation Committee

Tuesday 9 January 2024

[MR CLIVE BETTS *in the Chair*]

## Draft Online Safety (List of Overseas Regulators) Regulations 2024

9.25 am

**The Parliamentary Under-Secretary of State for Science, Innovation and Technology (Saqib Bhatti):** I beg to move,

That the Committee has considered the draft Online Safety (List of Overseas Regulators) Regulations 2024.

It is a pleasure to serve under your chairmanship, Mr Betts. I put on the record my gratitude to hon. Members for their campaigning and collaboration throughout the passage of the Online Safety Act 2023 and their contribution to making the UK the safest place in the world to be online. The Government are working at pace to ensure that the Act is fully operational as quickly as possible. I am therefore pleased to debate this statutory instrument, which was laid before the House in draft on 28 November last year.

The draft instrument is one of several that will enable Ofcom's implementation of the Act. It concerns Ofcom's co-operation with and disclosure of information to overseas online safety regulators under section 114 of the Act. Given the global nature of the regulated service providers, it is vital that Ofcom can co-operate and share information with its regulatory counterparts in other jurisdictions to support co-ordinated international online safety regulation.

In certain circumstances, it may be appropriate for Ofcom to support overseas regulators in carrying out their regulatory functions. For example, it may be beneficial for Ofcom to share information that it holds to inform supervisory activity or an investigation being carried out by an overseas regulator. That could support successful enforcement action, which in turn could have direct or indirect benefits for UK users such as preventing malign actors from disseminating illegal content on regulated services.

International collaboration will also make online safety regulation more efficient. In carrying out regulatory oversight activity, Ofcom and its international counterparts will be able to gather extensive information about regulated service providers. In some instances, it may be more efficient for regulators to share information directly, where that information has already been collected by a counterpart regulator. International regulatory co-operation and co-ordination are likely to reduce the regulatory burden on both international regulators and regulated service providers.

Section 114 of the Act builds on the existing information gateways available to Ofcom under the Communications Act 2003 by permitting Ofcom to co-operate with an overseas regulator for specified purposes. It includes powers to disclose online safety information to a regulator "for the purposes of...facilitating the exercise by the overseas regulator of any of that regulator's online regulatory functions, or...criminal investigations or proceedings relating to a matter to which the overseas regulator's online regulatory functions relate."

The information gateway addresses a small legislative gap, because in the absence of section 114, Ofcom could not share information for those specified purposes. Under section 1(3) of the Communications Act, Ofcom can share information only where it is

"incidental or conducive to the carrying out"

of its functions, subject to the general restrictions on the disclosure of information under section 393 of that Act.

The draft regulations designate the overseas regulators with which Ofcom can co-operate and share information under section 114 of the Online Safety Act. It is important to note that Ofcom will retain discretion over whether to co-operate and share information with the overseas regulators specified. The regulations designate the following overseas regulators: Arcom in France, the Netherlands Authority for Consumers and Markets, the Federal Network Agency in Germany, the Media Commission in Ireland, the eSafety Commissioner in Australia, and the European Commission.

In compiling the list of specified overseas regulators, the Department has consulted Ofcom and carefully considered its operational needs and existing relationships with overseas regulators. That will mean that the designated regulators are those with which Ofcom will be able to share information in an efficient and mutually beneficial manner. We have also considered whether the overseas regulator is a designated regulator of a bespoke online safety regulatory framework, ensuring that any information sharing is proportionate.

Another important consideration is the protection of fundamental freedoms online. For that reason, we have considered whether the autonomy of the regulator is protected in law and whether the overseas regulator and the jurisdiction that empowers it uphold international human rights.

Ofcom is an organisation experienced in handling confidential and sensitive information obtained from the services that it regulates, and there are strong legislative safeguards and limitations on the disclosure of such material. Overseas regulators that receive any information from Ofcom may use it only for the purpose for which it is disclosed. They may not use it for another purpose, or further disclose it, without express permission from Ofcom, unless ordered by a court or tribunal. Ofcom must also comply with UK data protection law, and would need to show that the processing of any personal data was necessary for a lawful purpose.

**Adam Afriyie (Windsor) (Con):** There are six bodies on the list. Is it likely that the bodies listed will change, given that the world is rather a dynamic place? It seems quite a short list at the moment.

**Saqib Bhatti:** I can confirm that we will continually review the list and update it as appropriate, in consultation with Ofcom.

As a public body, Ofcom is required to act compatibly with the right to privacy under article 8 of the European convention on human rights. As I said to my hon. Friend, we will continue to review the list of designated regulators, particularly as new online safety regimes are developed and operationalised around the world. I commend the draft regulations to the Committee and open the matter for debate.

9.31 am

**Chris Evans** (Islwyn) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Betts. May I congratulate your team, Sheffield Wednesday, on safely navigating the third round of the FA cup? *[Laughter.]* We should have had a “Hear, hear” for that, surely. I echo the Minister in thanking all hon. Members who took part in the passage of the Online Safety Bill. I have recently been appointed to the post of shadow Minister, so I am late to the game.

At a time when digital networking plays an integral role in our lives, we have to ensure the safety and wellbeing of individuals navigating the internet. The internet is an amazing tool for connecting with others: family and friends can stay in touch and be close even while they are on the other side of the world, as we saw during the pandemic. Using Zoom has been a lifesaver for so many people. People now have access to more technology on their smartphone than the astronauts when they first landed on the moon, but there is no doubt that such vastness and power presents significant challenges, particularly in content moderation and in safeguarding users against harmful material.

Labour has long campaigned for stricter measures to be put in place to protect the public and particularly children online. It has become increasingly apparent that social media companies simply cannot be trusted to regulate their own content. For too many years, the Government’s legislation has failed to protect us. However, I am glad that they have finally acknowledged that.

Through working with other countries, we can come together to make safe social spaces and above all to protect individuals, especially the most vulnerable such as children. The draft regulations recognise the need for international collaboration in upholding online safety standards. The legislation aims to identify and designate overseas regulators capable of aligning with and enforcing online safety measures. It acknowledges the global nature of the internet and the necessity of co-ordinated efforts among nations to ensure a secure online environment. It includes regulatory bodies in countries including but not limited to Australia, France and Germany—countries that, like ours, recognise the importance of a unified stance on online safety. It is simply not tenable for one country legislating alone to prevent its citizens from seeing harmful material; the internet is too expansive for that. With countries acting together, we can secure the best chance of making the internet a safer space, which is something that this legislation puts into motion.

Responsible content moderation is a particularly strong point of the draft regulations. They seek to create a framework that holds online platforms accountable for the content hosted on their sites, while protecting the most vulnerable individuals, especially our children, from exposure to harmful material. As a parent myself, I am relieved that Ofcom will be enabled, in co-operation with overseas regulators, not only to assist them in their online regulatory functions but to aid in criminal proceedings, thus helping to keep people safe across the world.

The legality surrounding online safety is complicated, so delineating a list of overseas regulators within a legislative framework benefits everyone. By offering a structured approach, the draft regulations will allow online platforms to navigate the complex landscape of

content moderation. By providing clear guidelines and affiliations with recognised regulatory bodies, this initiative fosters greater transparency and accountability in content moderation practices.

The importance of co-operation between online platforms and regulatory bodies cannot be overstated. Establishing an effective partnership ensures that platforms have access to the resources, guidance and best practices that are necessary for robust content moderation. It also enables regulators to understand the challenges faced by the platforms, and so leads to more nuanced and effective regulatory measures.

In discussing the draft regulations, it is crucial to address potential concerns and areas for further consideration. There is no doubt that there is a worrying practice of social media companies profiting from invasive algorithms that allow them to push all kinds of content, including harmful content, to anyone with a digital device. I believe that the draft regulations fall incredibly short on that. However, although progress on digital safety has been slow, the Opposition are happy to support the regulations and see them as a step in the right direction from a Government who have seemed timid in these matters. There is no doubt that the regulations represent a crucial stride towards improving online safety, fostering global co-operation and, more importantly, moving us all to a safer digital space.

9.36 am

**Sarah Champion** (Rotherham) (Lab): As ever, it is a pleasure to serve under your guidance, Mr Betts. I welcome the Online Safety Act, but unfortunately it falls rather short of where it could have gone. I agree with the Minister about the need for Ofcom to work across borders. The Internet Watch Foundation confirmed more than 250,000 reports of child sexual abuse content in 2022 alone, which was an increase on 2021. Most of this content originates from URLs based in Europe, so Ofcom’s working to regulate the internet with regulators from France, the Netherlands, Germany, Ireland, Australia and the European Commission is an essential and logical first step in working globally to protect children online. However, the regulations could, as ever, be improved. To that end, I will make two brief points that build on a point made by the hon. Member for Windsor, my former “Woman’s Hour” collaborator.

I would be interested to find out why the Government have yet to include the Philippines in the list of overseas regulators. As the Minister will know, the International Justice Mission has found that 500,000 Filipino children—one in every 100 children—are trafficked each year to create livestreamed child sexual abuse content. Many of the children abused are aged 12 or below, and it is common for it to take up to two years before the children are found and safeguarded. Much of this abuse is driven by foreign demand, which comes predominantly from the United States, Europe, Australia and the United Kingdom. Typically, western child sex predators will pay as little as \$25 to watch children being sexually abused on a livestreamed video.

The UK currently ranks third in the world for demand for child sexual abuse content. The National Crime Agency has recently declared the Philippines a global hotspot for the production of child sexual abuse content. Although this abuse is being carried out in south-east

[Sarah Champion]

Asia, it is being driven by predators based in the UK. I therefore strongly believe that our Government have a duty to act.

The Congress of the Philippines finally passed a law in 2022 making it an offence to produce, distribute, possess or make available child sexual abuse material. This provides an opportunity for Ofcom to work with the Philippines to protect children and end the pervasive issue of livestreaming child sexual abuse content. I urge the Government to include the Philippines on the list of overseas regulators, while continuing to work with European partners to block access to child sexual abuse content in the UK.

My second point is about whether the use of virtual private networks will undermine the effectiveness of Ofcom's work, in conjunction with overseas regulators, to protect children from harmful content while prohibiting paedophiles from accessing child sexual abuse content. As the Committee will know, VPNs are used to hide a user's location and identity, and are often used to avoid regional blocks on content.

I have two primary concerns about the use of VPNs and the effectiveness of the draft regulations. First, it is widely known that paedophiles use VPNs to access child abuse content. The Internet Watch Foundation has created an initiative to work with VPN providers to ensure that their apps are not being abused to view child sexual abuse material. However, there is no legal requirement for companies to do so, and VPNs are still being exploited. How will the Minister ensure that Ofcom cracks down, along with overseas regulators, on the use of VPNs to view child sexual abuse content? Secondly, the Act provides for age verification tools to prevent children from viewing harmful content. Given that VPNs are known to be able to circumvent geographical regulations, how will the Minister ensure that they do not undermine age verification tools?

I support what is proposed in the draft regulations, but I hope that the Government will take my points on board and work with me to strengthen them.

9.41 am

**Richard Burgon** (Leeds East) (Lab): It is a pleasure to serve under your chairship, Mr Betts. I very much welcome the speech of my hon. Friend the Member for Rotherham.

I want to make a brief point about harmful online content that relates to suicide and self-harm. Throughout the passage of the Online Safety Bill, I worked with a family in my constituency. My constituent Joe Nihill took his own life at the age of 23 after accessing online harmful suicide-related content. His family, his mother Catherine and his sister-in-law Melanie have waged a really courageous campaign to ensure that what happened to him would not happen to others. Before he sadly took his own life, Joe left a letter asking them to take action against the very disturbing online phenomenon of people encouraging, advising, facilitating and even arranging to provide substances for suicide.

Joe's family were pleased to meet Ministers, and they were pleased to see the progress that has been made on this legislation, although of course we want it to go further. In relation to their campaign, I want to put on the record the fundamental importance of international

co-operation. One of the great blocks that they faced when campaigning against harmful suicide-related content on the website that Joe accessed was that it appeared to be based in another country, the United States. Towards the end of last year, an ITV News story revealed that the website that my constituent accessed before taking his own life had been linked to the deaths of more than 50 people in the UK alone. The website discussed methods of suicide and even offered encouragement to users.

The positive news is that anyone who visits the site now is met with a banner saying that its content violates our country's new Online Safety Act and will not be viewable by the public. That is very welcome, and it has happened as a result of Ofcom pressure. That is an example of the importance of international co-operation, although it needs to go further. Some of the people online who are peddling this dangerous content and manipulating others—especially those who are facing hard times in their lives and are vulnerable, regardless of their age—are very much the kind of obsessive individuals who I am afraid will go from small platform to small platform and from this location to that location to preserve their harmful online content.

We need to go further, but I am glad that the Minister says that the list of countries and agencies will be under constant review. Unless the international co-operation that we have talked about today is taken further, the fight against harmful suicide-related content online will not be won. I will thank the Minister for his comments.

9.44 am

**Saqib Bhatti:** I thank hon. Members across the Committee for their contributions. I am grateful for this opportunity to debate the list of overseas regulators under the Online Safety Act. It is vital that we recognise the global nature of regulatory services and regulated service providers under the Act. The draft regulations will ensure that Ofcom can co-operate and share online safety information with specified overseas regulators where it is appropriate to do so. As I have set out, we will review whether it is desirable and appropriate to add further overseas regulators to the list on an ongoing basis, particularly as the new online safety regulations are developed and operationalised around the world.

May I put on the record a special thank you to the hon. Member for Rotherham for her contribution? I have followed her work since I have been in Parliament, and I know she is a champion in protecting children, especially in the online sphere. I would welcome the opportunity to work with her, and she raised a very interesting point. As I say, we will continue to review the list of regulators. I am certainly happy to have that conversation.

I also give special thanks to the hon. Member for Leeds East for sharing his constituent's story. The intention has always been for this legislation to make the online world the safest place possible, especially in the UK, and international collaboration is key to that. My door remains open if there is anything further that he would like to discuss. Once again, I commend the draft regulations to the Committee.

*Question put and agreed to.*

9.46 am

*Committee rose.*



