RESPONSE TO OFCOM PLAN OF WORK 2025/6

1. The Online Safety Act Network works with over 70 civil society organisations, campaigners and academics with an interest in the implementation of the Online Safety Act. All our work and our previous submissions to various Ofcom consultations can be found here.

2. This brief response focuses on a few key strategic points which we feel are significant in relation to Ofcom's role at the online safety regulator in the coming year. It relates to both the material in the plan of work and the presentation of it at the London stakeholder event on 21 January.

<u>General points</u>

3. In para 1.1, Ofcom talks about its approach to regulation:

    i. *"Our approach to regulation has sought to foster and support growth and disruption, believing that competition for ideas as well as markets is the right way to achieve sustainable outcomes for citizens, consumers and the economy."*

4. We would ask Ofcom to explain why this statement does not include a mention of "safety" and, furthermore, to define what it means by "sustainable outcomes" for citizens and consumers under the Online Safety Act regime. We would suggest that this statement is revised in the final version of the plan.

5. We note that Ofcom refers to the publication of the Secretary of State's Draft Statement of Strategic Priorities for Online Safety at para 1.8. This sets out an extensive framework for reprioritisation of Ofcom's work to deliver its online safety objectives, not just for the next financial year but for the remainder of this Parliament. While the timing of its publication would not have afforded Ofcom the opportunity to incorporate these priorities into its proposed plan for work, the final plan needs to be substantially amended to reflect this otherwise stakeholders, including the Government, will have no confidence that Ofcom intended to reprioritise its activities and its resources to deliver the Secretary of State's priorities. We would suggest, for full transparency, that Ofcom also publishes its consultation response to the DSIT Secretary of State alongside the final version of the Plan of Work.

6. We would also suggest that Ofcom includes additional detail on the following aspects in the final version of the plan.

   ○ Para 1.9 states*: "Our work supporting delivery of "We live a safer life online" in 2025/26 includes:*
     i. *Establishing effective regulation of the online safety regime*
     ii. *Tackling illegal harms and protecting children online*
     iii. *Working with partners*

     Further detail on who its partners are and how they intend to work with them would be helpful to judge whether their detailed plans will effectively deliver the objective.

   ○ We live a safer live online: para 2.19 onwards
     i. We would request further detail in the final plan on what the regulator has learnt from its online safety consultations to date, and what changes it will make to its future consultation processes as a result - whether in terms of industry, civil society or other stakeholder engagement.
     ii. We would also suggest that the final plan has more of a focus on outcomes. The current proposals are mainly linked to process.

Protecting Women and Girls

7. We have two specific points to raise here. Re para 2.25 and page 41, we question why the proposed guidance on protecting women and girls is now referred to as "best practice guidance". The duty on Ofcom, as per section 54 of the OSA 2023, is to produce guidance that **"may, among other things"**, contain "advice and examples of best practice for assessing risks of harm to women and girls from content and activity .. and for reducing such risks". Ofcom have received many representations during the course of their pre-consultation stakeholder engagement that limiting this guidance to a compilation of "best practice", when the current online experience for many women and girls points to an absence of good practice from many of the tech platforms, will lead to a lowest common denominator product that will not shift the dial in terms of protections for women and girls because rather than introducing guidance based on protecting, and future proofing, women and girls from risks, Ofcom will instead end up producing guidance for platforms, on what platforms themselves are already doing. We are concerned at the apparent emergence, therefore, of "best practice guidance" as a shorthand for this important regulatory product, not least as it points to a further failure to fully understand and engage with the points that have been raised with Ofcom to date.

8. Ofcom mentions its role supporting the Scottish Government on its goal of eradicating violence against women and girls by working on understanding and preventing the use of technology in perpetrating this violence". However, there is no specific mention of the UK Government's pledge "to halve violence against women and girls in the next decade" and Ofcom's role in relation to that. The Statement of Strategic Priorities refers to the Government's pledge and also sets out how Ofcom's approach to this must be embedded in a greater focus on safety by design,

which we would expect to see featuring more strongly in the final plan:

> "[Safety by design](): embed safety by design to deliver safe online experiences for all users but especially children, tackle violence against women and girls, and work towards ensuring that there are no safe havens for illegal content and activity, including fraud, child sexual exploitation and abuse, and illegal disinformation"

9. On protected characteristics, Ofcom mentions their role to protect groups only under Impact Assessments (para 4.7):

> "impact assessments in line with our revised guidelines to ensure our approach to evidence-based policy making adheres to best practices. We consider the effects of our interventions on a wide range of citizens and consumers, including those with protected characteristics as identified in equality legislation".

However, Ofcom's mandate under the OSA is to primarily protect groups who are most marginalised and disproportionately impacted by online harms, with the OSA providing a new and richer framework for the protection of marginalised groups, i.e. protection from discrimination of the grounds of more than one protected characteristic in relation to the 2010 Equality Act.

Media literacy

10. Ofcom's duties in relation to Communications Act 2003 are noted though it is not clear that Ofcom are taking seriously their expanded powers in this area, as detailed under the OSA 2023. The 2024 Ofcom Media Literacy strategy articulates: "Media literacy has been an important part of Ofcom's role since it was established in 2003 when the Communications Act directed Ofcom to **research and promote media literacy** across the UK", whereas the OSA gives Ofcom itself specific duties to help users "reduce their and others' exposure to harmful content", "use or apply" apps, tools or features, and "establish the reliability, accuracy and authenticity of content" for example. These powers go beyond promoting existing, 'best practice' research or initiatives but rather allows Ofcom to invest in, and deliver, programmes or campaigns to increase media literacy directly.

Engagement

11. We wish to make a general point about the lack of any mention of engaging with victims or those with lived experience of online harms throughout the Plan. For example, on page 26, para 4.2, the plan sets out how Ofcom will be "engaging with the academic community to help develop our evidence base". It goes on to say:

> "We have a focus on building relationships with academic researchers to ensure Ofcom's work is informed by the latest insights from academic research, expert groups and civil

society organisations. This is particularly important for our regulation of online safety, where we will work with a wide range of stakeholders to ensure we have the insights we need to understand user experiences online and the impact of platforms' safety measures"

We would recommend that the final plan includes a reference to victims, victims' representatives and/or lived experience in terms of the areas where relationships need to be built and maintained in order to fully deliver Ofcom's aims to "understand user experiences online".

12. Furthermore, we note the general lack of specific reference to engagement with civil society as distinct from their researchers being a subset of the academic community and the particular considerations that arise in assessing and incorporating the evidence that Ofcom solicits and receives from these organisations. Significant civil society concerns have arisen in the first phases of Ofcom's online safety consultations, as set out in our response to the illegal content final proposals, that the evidence and representations from such groups have been ignored by Ofcom. We are therefore concerned that there is no reflection in this plan as to what the regulator has learnt from its first year of online safety consultation and stakeholder engagement and what changes it proposes to make to the management of its relationship with civil society (as distinct from the academic community) as a result in order to deliver its objectives for 2025/6.

13. We are happy to expand further on any of the points above, either in writing or in discussion with Ofcom prior to the publication of the final Plan of Work.

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