Draft Regulations laid before Parliament under section 225(8) of the Online Safety Act 2023 (c. 50), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No.

ELECTRONIC COMMUNICATIONS

The Online Safety Act 2023 (Category 1, Category 2A and Category 2B Threshold Conditions) Regulations 2025

Made - - - - ***

Coming into force in accordance with regulation 1(2).

The Secretary of State makes these Regulations in exercise of the powers conferred by section 224(2) of, and paragraph 1(1), (2) and (3) of Schedule 11 to, the Online Safety Act 2023(**a**).

In accordance with paragraph 2(11) of Schedule 11 to that Act, the Secretary of State makes these Regulations following research carried out, and advice provided to the Secretary of State, by OFCOM.

In accordance with section 225(8) of that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Online Safety Act 2023 (Category 1, Category 2A and Category 2B Threshold Conditions) Regulations 2025.

(2) These Regulations come into force on the day after the day on which they are made.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations "active United Kingdom user" means—

(a) in relation to a regulated user-to-user service(**b**), any United Kingdom user(**c**) who has accessed the user-to-user part of that service;

(**a**) 2023 c. 50.
(**b**) See sections 3 and 4 of the Online Safety Act 2023 (c. 50) for the meaning of "user-to-user service" and "regulated user-to-user service".
(**c**) See section 227 of the Online Safety Act 2023 for the meaning of "user" and "United Kingdom user".

(b) in relation to the search engine(**a**) of a regulated search service(**b**) or the search engine of a combined service(**c**), any United Kingdom user who has encountered(**d**) search content(**e**) in or via search results(**f**) of that regulated search service or combined service.

Category 1 threshold conditions

3.—(1) The Category 1 threshold conditions(**g**) are met by a regulated user-to-user service where, in respect of the user-to-user part of that service, it—

(a) (i) has an average number of monthly active United Kingdom users that exceeds 34 million, and

(ii) uses a content recommender system, or

(b) (i) has an average number of monthly active United Kingdom users that exceeds 7 million,

(ii) uses a content recommender system, and

(iii) provides a functionality for users to forward or share regulated user-generated content(**h**) on the service with other users of that service.

(2) In paragraph (1), a "content recommender system" means a system, used by the provider of a regulated user-to-user service in respect of the user-to-user part of that service, that uses algorithms which by means of machine learning or other techniques determines, or otherwise affects, the way in which regulated user-generated content of a user, whether alone or with other content, may be encountered by other users of the service.

Category 2A threshold conditions

4. The Category 2A threshold conditions(**i**) are met by a search engine of a regulated search service or a combined service where it—

(a) has an average number of monthly active United Kingdom users that exceeds 7 million, and

(b) is not a search engine which—

(i) only enables a user to search selected websites or databases in relation to a specific topic, theme or genre of search content, and

(ii) is facilitated by means of an arrangement between the provider of a regulated search service or combined service with one or more entities, which relies on an application programming interface or other technical means to present search results to users.

(**a**) See section 229 of the Online Safety Act 2023 for the meaning of "search engine".
(**b**) See sections 3 and 4 of the Online Safety Act 2023 for the meaning of a "search service" and a "regulated search service".
(**c**) See section 4(7) of the Online Safety Act 2023 for the meaning of a "combined service".
(**d**) See section 236(1) of the Online Safety Act 2023 for the meaning of "encounter".
(**e**) See paragraph 7 of Schedule 11 to the Online Safety Act 2023 for the meaning of "search content"; it has the same meaning as in Part 3 of that Act (see section 57(2)). See also section 236 of that Act for the meaning of "content".
(**f**) See paragraph 7 of Schedule 11 to the Online Safety Act 2023 for the meaning of "search content"; it has the same meaning as section 57 of that Act, which includes the meaning of "search results" in section 57(3) and the meaning of "via search results" in section 57(5).
(**g**) See paragraph 1(1) of Schedule 11 to the Online Safety Act 2023 for the meaning of "Category 1 threshold conditions".
(**h**) See paragraph 7 of Schedule 11 to the Online Safety Act 2023 for the meaning of "regulated user-generated content" (it has the same meaning as in section 55 of that Act).
(**i**) See paragraph 1(2) of Schedule 11 to the Online Safety Act 2023 for the meaning of "Category 2A threshold conditions".

Category 2B threshold conditions

5. The Category 2B threshold conditions(**a**) are met by a regulated user-to-user service where, in respect of the user-to-user part of that service, it—

(a) has an average number of monthly active United Kingdom users that exceeds 3 million, and

(b) provides a functionality for users to send direct messages to other users of the same service which is designed so that messages cannot be encountered by any other users of that service unless further action is taken by the user who sent the message or a user who received the message.

Determining the number of active United Kingdom users

6.—(1) A service's average number of monthly active United Kingdom users for the purposes of regulations 3 to 5 is the mean number of active United Kingdom users per month for the relevant period.

(2) The "relevant period" in relation to an assessment under section 95, 96 or 97 of the Online Safety Act 2023 is the six-month period ending with the month preceding the month in which that assessment begins.

(3) Where the service has been in operation for less than six months, reference to "the six-month period" in paragraph (2) is to be read as "the period for which the service has been in operation".

Secretary of State
Department for Science, Innovation and Technology

(**a**) See paragraph 1(3) of Schedule 11 to the Online Safety Act 2023 for the meaning of "Category 2B threshold conditions".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Online Safety Act 2023 ("the Act") to provide for threshold conditions for Category 1, Category 2A and Category 2B services.

Regulation 3 provides that a user-to-user service which meets the threshold conditions in either paragraph (1)(a) or (1)(b) is a Category 1 service. The first set of conditions requires services to meet a user number threshold and have the characteristic of a content recommender system. The second set requires a lower user number threshold to be met than the first set, and includes not only a content recommender system but also the functionality for users to forward or share content already on a service to or with other users of that service.

A "content recommender system" is defined in paragraph (2) of regulation 3. It is a system used by a provider of a service on a user-to-user service which uses algorithms to determine what regulated user-generated content is encountered by a user of the service or to affect the way in which such content is encountered by a user of the service.

Regulation 4 provides that the search engine of a search service or a combined service is a Category 2A service where it meets the user number threshold condition and is not a search engine which only allows selected databases and websites to be searched on a specific topic, theme or genre by means of a relevant arrangement (often known as a "vertical search engine").

Regulation 5 provides that a user-to-user part of a user-to-user service which meets the user number threshold condition and the functionality condition for direct messaging is a Category 2B service.

Regulation 6 stipulates how the average number of monthly active United Kingdom users is to be determined against the threshold conditions. This number is to be calculated as the mean number of active United Kingdom users per month over a six-month period or if a service has not been in operation for at least six months, then the number of months it has been in operation.

A full impact assessment of the effect that this instrument will have on the costs to business is available from the Department for Science, Innovation and Technology at 100 Parliament Street, London SW1A 2BQ and is published with an Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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