Draft Regulations laid before Parliament under section 225(1)(b) and (p) and (11) of the Online Safety Act 2023, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No. ****

FEES AND CHARGES

ELECTRONIC COMMUNICATIONS

The Online Safety Act 2023 (Qualifying Worldwide Revenue) Regulations 2025

Made - - - -

Coming into force in accordance with regulation 1

The Office of Communications ("OFCOM") makes these Regulations in exercise of the powers conferred by section 85(1), (3), (4) and (5) of, and paragraph 5(9) and (11) of Schedule 13 to, the Online Safety Act 2023(**a**) ("the Act").

Before making these Regulations, OFCOM consulted the Secretary of State, the Treasury and such other persons as it considered appropriate in accordance with section 85(7) of, and paragraph 5(10) of Schedule 13 to, the Act.

In accordance with section 225(1)(b) and (p) and (11) of the Act, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

PART 1

General

Citation, commencement and extent

1. These Regulations may be cited as the Online Safety Act 2023 (Qualifying Worldwide Revenue) Regulations 2025 and come into force 21 days after the day on which they are made.

2. These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation: general

3. In these Regulations—

"the Act" means the Online Safety Act 2023;

(**a**) 2023 c. 50.

"applicable accounting standards" has the meaning given by section 64 of the Finance Act 2020(**a**) except that references in that section to a "group" should be read as references to a "provider of a regulated service" or a "group undertaking", as appropriate;

"group" means a parent undertaking and its subsidiary undertakings, reading those terms in accordance with section 1162 of the Companies Act 2006(**b**);

"group undertaking" has the meaning given by section 1161(5) of that Act.

Interpretation: revenue that is referable to a regulated service

4.—(1) This regulation applies for the purposes of Parts 2 and 3.

(2) An amount of revenue counts as "referable" to a regulated service(**c**) only if it arises in connection with provision of those parts of the regulated service listed in paragraph (3) (the "relevant parts").

(3) The relevant parts of a regulated service are—

(a) parts where regulated user-generated content(**d**) may be encountered(**e**) (in the case of user-to-user services(**f**) and combined services(**g**));

(b) parts where search content(**h**) may be encountered (in the case of search services(**i**) and combined services); and

(c) parts where regulated provider pornographic content(**j**) may be encountered (in the case of a service within section 80(2) of the Act).

(4) Where revenue comprises amounts arising partly in connection with provision of relevant parts of a regulated service and partly in connection with other things, it is to be apportioned on a just and reasonable basis.

(5) Provision of relevant parts of a regulated service means their provision anywhere in the world.

(6) Circumstances where revenue arises in connection with provision of relevant parts of a regulated service include (but are not limited to) those where amounts are generated as a result of—

(a) any advertising (including via paid-for advertisements(**k**)); and

(b) the supply of goods or other services.

Determination of qualifying worldwide revenue: general principles

5.—(1) This regulation applies for the purposes of determining qualifying worldwide revenue (whether for the purpose of Part 2 or for the purpose of Part 3).

(2) As far as reasonably practicable, amounts brought into account must conform to applicable accounting standards.

(3) If an amount that is relevant for the purpose of determining qualifying worldwide revenue is expressed for accounting purposes by or on behalf of the provider of a regulated service, or by or on behalf of an entity that is a group undertaking in relation to the provider, in a currency other than sterling—

(a) the amount must be converted into its sterling equivalent; and

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(**a**) 2020 c. 14.
(**b**) 2006 c. 46.
(**c**) "Regulated service" is defined in section 4(4) of the Act.
(**d**) "Regulated user-generated content" is defined in section 55(2) of the Act.
(**e**) "Encounter" is defined in section 236(1) of the Act.
(**f**) "User-to-user service" is defined in section 3(1) of the Act.
(**g**) "Combined service" is defined in section 4(7) of the Act.
(**h**) "Search content" is defined in section 57(2) of the Act.
(**i**) "Search service" is defined in section 3(4) of the Act.
(**j**) "Regulated provider pornographic content" is defined in section 79(3) of the Act.
(**k**) "Paid-for advertisement" is defined in section 236(1) of the Act.

(b) the conversion must be made by applying a just and reasonable exchange rate.

PART 2

Qualifying worldwide revenue for the purposes of Part 6 of the Act(**a**)

Provider of a regulated service

6.—(1) This regulation applies for the purposes of determining the qualifying worldwide revenue of a provider(**b**) of a regulated service in respect of a qualifying period (where the provider provides no other regulated services).

(2) The provider's qualifying worldwide revenue is the total amount of revenue the provider receives during the qualifying period that is referable to the regulated service.

Provider of two or more regulated services

7.—(1) This regulation applies for the purposes of determining the qualifying worldwide revenue of a provider of more than one regulated service in respect of a qualifying period.

(2) The provider's qualifying worldwide revenue is determined by—

(a) finding, in respect of each regulated service, the total amount of relevant revenue; and

(b) adding together those amounts.

(3) Revenue is "relevant" for that purpose if—

(a) the provider receives it during the qualifying period; and

(b) it is referable to the regulated service in question.

Group undertakings in receipt of revenue that is referable to one or more regulated services

8.—(1) This regulation applies where a provider of one or more regulated services is a member of a group during any part of a qualifying period.

(2) The qualifying worldwide revenue of that provider is to include the qualifying worldwide revenue of any entity ("E") that—

(a) is a group undertaking in relation to the provider for all or part of the qualifying period; and

(b) receives during that period, any amount referable to a regulated service provided by the provider.

(3) Where E is a group undertaking in relation to a provider for part (not all) of a qualifying period, only amounts relating to the part of the qualifying period for which E was a group undertaking may be brought into account in determining E's qualifying worldwide revenue.

(4) For the purposes of this regulation, the qualifying worldwide revenue of E is the total amount of revenue that E receives during the qualifying period that is referable to the regulated service or regulated services provided by the provider (as the case may be).

(**a**) When determining the maximum amount of a penalty under paragraph 4 of Schedule 13 to the Act, regulations 6 to 8 apply by virtue of paragraph 4(9) of that Schedule. In such a case, the qualifying worldwide revenue of a provider of a regulated service is required to be by reference to an accounting period. "Accounting period" is defined in paragraph 4(8) of Schedule 13 to the Act.

(**b**) The term "provider", in respect of an internet service such as a user-to-user service or a search service, is defined in section 226 of the Act. See also section 83(11) of the Act which contains further provision about the meaning of a "provider" of a regulated service for the purposes of Part 6 of the Act.

Determination of qualifying period

9.—(1) The qualifying period in respect of a charging year(**a**) is the second calendar year preceding the one within which the charging year begins.

(2) In this regulation, "calendar year" means the period of 12 months beginning with 1 January.

PART 3

Qualifying worldwide revenue for the purposes of paragraph 5 of Schedule 13 to the Act

Maximum amount of penalty: two or more entities in group jointly and severally liable

10.—(1) This regulation applies for the purposes of paragraph 5 of Schedule 13 to the Act (maximum amount of penalties: group of entities) regarding the qualifying worldwide revenue of a group of entities that consists of—

(a) an entity that is the provider of a regulated service (entity "E"); and

(b) every other entity that is a group undertaking in relation to entity E.

(2) The qualifying worldwide revenue of the group of entities is determined by—

(a) finding, in respect of each entity within paragraph (1)(a) and (b), the total amount of relevant revenue; and

(b) adding together those amounts.

(3) For the purposes of paragraph (2)(a) an amount of revenue is "relevant" if—

(a) the entity receives it during the most recent complete accounting period (whether or not it is referable to a regulated service); and

(b) it is not attributable to payment in consideration for goods or services provided to another entity within paragraph (1)(a) or (b).

(4) For the purposes of paragraph (2)(a), where the first accounting period of an entity within paragraph (1)(a) or (b) has not yet ended, the amount of relevant revenue in respect of that entity includes, in addition to the amount calculated in accordance with paragraph (3), the amount of revenue which OFCOM estimates—

(a) that the entity is likely to receive during the remainder of that accounting period (whether or not it is referable to a regulated service); and

(b) will not be attributable to payment in consideration for goods or services provided to another entity within paragraph (1)(a) or (b).

(5) Where an entity is a group undertaking in relation to entity E for part (not all) of the most recent complete accounting period, only amounts relating to the part of the accounting period for which the entity was a group undertaking may be brought into account in determining the total amount of relevant revenue.

Name
Online Safety Group Director
Date For and on behalf of the Office of Communications

(**a**) "Charging year" is defined in section 90 of the Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Online Safety Act 2023 (the "Act").

They make provision about how the qualifying worldwide revenue (the "QWR") of a provider of a regulated service, or of a group of entities, is to be determined. The concept of QWR is relevant for the purposes of (a) Ofcom setting fees payable by the providers of regulated services under Part 6 of the Act to recover its costs of exercising its online safety functions under the Act, and (b) calculating the maximum amount of a penalty under Schedule 13 to the Act.

Part 2 of the Regulations prescribes how QWR should be calculated for the purposes of setting fees under Part 6 of the Act. Specifically, regulations 5 to 7 prescribe how the QWR of a provider should be calculated in respect of a "qualifying period". This should be done by identifying only revenue that is referable to the regulated service(s) provided by it. Regulation 9 defines the qualifying period in relation to a charging year as the second calendar year preceding the one within which the charging year begins.

Paragraph 4(9) of Schedule 13 to the Act provides that the definition of QWR which applies for the purposes of Part 6 of the Act also applies when determining the maximum amount of a penalty payable by a person in respect of a regulated service provided by that person. Regulation 9 is not relevant for this purpose as the maximum amount of a penalty should be calculated by reference to the person's QWR in their most recent complete "accounting period". The term "accounting period" is defined in paragraph 4(8) of Schedule 13 to the Act.

Part 3 of the Regulations prescribes how QWR should be calculated when determining the maximum amount of a penalty payable by a group of entities that are jointly and severally liable for a penalty in accordance with Schedule 15 to the Act. The definition of QWR under Part 3 is broader than under Part 2, and captures all revenues received by those entities during the most recent complete accounting period (whether or not they are referable to a regulated service).

An impact assessment of the effect that this instrument will have on the costs to business under the Better Regulation Framework has not been prepared as these Regulations are in connection with a tax, duty, levy or other charge. However, in accordance with section 7 of the Communications Act 2003, Ofcom carried out and published an assessment of the likely impact of implementing these Regulations in its public consultation (available at: www.ofcom.org.uk). An updated impact assessment was also included in its final policy statement (available at: www.ofcom.org.uk). An Explanatory Memorandum has also been published alongside the instrument on www.legislation.gov.uk.

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