EXPLANATORY MEMORANDUM TO

THE ONLINE SAFETY ACT 2023 (FEES) (THRESHOLD FIGURE) REGULATIONS 2025

2025 No. 1204

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Science, Innovation and Technology and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Kanishka Narayan MP, Parliamentary Under-Secretary of State for AI and Online Safety at the Department for Science, Innovation and Technology confirms that this Explanatory Memorandum meets the required standard.

2.2 Daniel Okubo, Deputy Director for Online Safety Policy and Regulation, at the Department for Science, Innovation and Technology confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Charlotte Allen at the Department for Science, Innovation and Technology can be contacted by email at the following address with any queries regarding the instrument: osaimplementation@dsit.gov.uk. Alternatively, the department can be contacted by telephone: 07808847380.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The cost to Ofcom of exercising its online safety functions under the Online Safety Act 2023 ("the Act") will be met by fees charged to providers of regulated services. Providers with qualifying worldwide revenue that is equal to or above a threshold figure must notify Ofcom and will be subject to paying a fee, unless they meet an exemption. The instrument specifies the threshold figure as £250 million.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland, and Northern Ireland. Fees or penalties imposed by Ofcom under the Act may apply to the providers of regulated services based outside the United Kingdom. Further details about the instrument's territorial application are provided in paragraph 11.4.

5. Policy Context

What is being done and why?

5.1 This instrument is required by the Act to implement the fee regime that will allow Ofcom to require providers of regulated services to pay a fee to meet the cost to Ofcom of exercising its online safety functions. Until the fee regime is in place the cost of Ofcom's online safety functions is being funded by the taxpayer, with the Act providing a separate mechanism for these costs to be recovered.

5.2 The fee payable to Ofcom will be determined by reference to the provider's qualifying worldwide revenue for the qualifying period and any other factors that Ofcom consider appropriate. The Online Safety Act 2023 (Qualifying Worldwide Revenue) Regulations 2025 (S.I. 2025/1032)[1] provide for how the qualifying worldwide revenue of a provider of a regulated service is to be determined. It is defined as the total amount of worldwide revenue the provider receives that arises in connection with those parts of its regulated service(s) on which regulated user-generated content, search content, and regulated provider pornographic content may be encountered by users.

5.3 Only providers of regulated services whose qualifying worldwide revenue is equal to or above a certain threshold figure and are not otherwise exempt under section 83(6) of the Act, will be required to notify their qualifying worldwide revenue to Ofcom and to pay fees to Ofcom. This instrument specifies the threshold figure as £250 million and states it takes effect for the charging year beginning with 1st April 2026.

5.4 This figure has been decided having taken advice from Ofcom as required by the Act. This advice can be found in Ofcom's 'Statement on Fees and Penalties' published in June 2025.[2] Following a public consultation[3] (see section 7 below), Ofcom advised in its Statement on Online Safety Fees and Penalties "the Secretary of State to set a qualifying worldwide revenue threshold figure of £250 million but consider that any threshold figure within a £200 million to £500 million range could be appropriate."

5.5 Ofcom summarises in its Statement on Online Safety Fees and Penalties why it has made this decision as follows: "In our advice to the Secretary of State on the QWR threshold, we have considered all available evidence and consultation responses. Taking account of this, we believe our original proposed threshold strikes the right balance between proportionality and workability, spreads the fee burden across a range of providers and serves the objective of limiting the impact on SMEs."

5.6 The threshold figure in these Regulations has effect from the initial charging year from 1 April 2026. In relation to the initial charging year, providers will have within four months of the date on which this instrument comes into force to notify Ofcom of their qualifying worldwide revenue. The Online Safety Act 2023 (Fees Notifications) Regulations 2025 (S.I. 2025/747)[4] specifies the evidence, documents or other information that such providers must supply to Ofcom and the way in which it should be supplied to Ofcom.

[1] https://www.legislation.gov.uk/uksi/2025/1032/contents/made

[2] https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-online-safety---fees-and-penalties/main-documents/statement-on-online-safety-fees-and-penalties.pdf?v=399290

[3] https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/consultation-online-safety-fees-and-penalties

[4] https://www.legislation.gov.uk/uksi/2025/747/made

What was the previous policy, how is this different?

5.7 Prior to the Act, there was no specific framework for the regulation of online content and the prevention of online harms in the UK. The Act conferred new functions on Ofcom for it to act as the regulator for online safety, and allows for the establishment of a fees regime to require providers of regulated services to pay a fee to meet the cost to Ofcom of exercising those new online safety functions. Previously, this has not been the case.

6. Legislative and Legal Context

How has the law changed?

6.1 These are the first Regulations to be made under section 86 of the Act. The regulations enable the fee regime to operate by specifying the revenue threshold at or above which providers must notify Ofcom and pay a fee, unless they meet an exemption.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes. The Secretary of State is under a statutory duty to make regulations specifying the threshold figure for the purposes of section 83 and 84 of the Act (duty to notify Ofcom and duty to pay fees).

7. Consultation

Summary of consultation outcome and methodology

7.1 The Secretary of State makes these Regulations having taken advice from Ofcom on what the threshold figure should be, in accordance with section 86(2) of the Act. Ofcom was under a duty to carry out a consultation to inform the setting of the threshold figure under section 86(1) of the Act. Ofcom consulted on the threshold figure as part of a wider public consultation regarding its proposals to implement the fees regime, which ran from 24 October 2024 to 9 January 2025.

7.2 The consultation was published on Ofcom's website.[5] Ofcom received 26 responses to the consultation. Non-confidential copies of all responses to the consultation are available on Ofcom's website, and Ofcom's 'Statement on Fees and Penalties' contains a summary of responses.[6]

7.3 Ofcom's Statement outlines that stakeholder comments on the threshold figure centred on the qualifying revenue threshold being higher or lower than proposed and that factors other than revenue should be used as an entry point to fees. Ofcom's response is summarised in paragraph 5.5 above.

8. Applicable Guidance

8.1 Ofcom has consulted on and intends to publish guidance to aid providers in the process of calculating their qualifying worldwide revenue and on the notification process and the documentation that providers should submit. This guidance will be available on Ofcom's website ahead of these Regulations coming into force.

[5] https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/consultation-online-safety-fees-and-penalties

[6] https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-online-safety---fees-and-penalties/main-documents/statement-on-online-safety-fees-and-penalties.pdf?v=403589

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this legislation. This is because under the Better Regulation Framework[7], paragraph 2.3 states that "provisions and their impacts are out of scope from the definition of Regulatory Provisions where they are in connection with: a) imposing, abolishing, varying or in connection with any tax, duty, levy or other charge;…". This instrument is made in connection with an 'other charge', namely, the online safety fees charged to in-scope providers of regulated services under the Act.

9.2 Ofcom has carried out an Impact Assessment[8] under section 7 of the Communications Act 2003 of its policy decisions supporting the legislation (and its wider approach to fees) as well as an equality and Welsh language impact assessment.[9] These include consideration of the impacts on small and micro, medium-sized and large providers of regulated services as well as potential indirect impacts and wider considerations.

Impact on businesses, charities and voluntary bodies

9.3 Only businesses, charities or voluntary bodies, with qualifying worldwide revenue equal to or above £250 million and are not otherwise exempt under section 83(6) of the Act, will be required to notify their qualifying worldwide revenue to Ofcom and to pay fees to Ofcom.

9.4 Based on Ofcom's indicative analysis to inform fees policy, fees for individual providers are expected to be equal to approximately 0.02-0.03% of their qualifying worldwide revenue. For example, a provider with qualifying worldwide revenue of £250 million would be required to pay an annual fee of between £50,000 – 75,000. A provider with £1 billion revenue would be required to pay an annual fee of between £200,000 – 300,000. Ofcom estimates up to 60 providers could pay fees, with 5 providers having qualifying worldwide revenue above £10 billion.[10] However, the actual tariff and number of fee payers for any given year will be only known once all providers have notified Ofcom of their QWR.

9.5 Ofcom considers that providers with qualifying worldwide revenue at or above £250 million should have the means to pay fees and have committed to supporting fee payers facing larger invoices by having the option to reduce the impact and spread the cost via payments by instalments.

9.6 There is no, or no significant, impact on businesses, charities or voluntary bodies with a qualifying worldwide revenue below the £250 million threshold for paying fees.

9.7 The legislation does not impact small or micro businesses.

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[7] https://www.gov.uk/government/publications/better-regulation-framework

[8] https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-online-safety---fees-and-penalties/main-documents/consultation-online-safety---fees-and-penalties.pdf?v=403671

[9] https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-online-safety---fees-and-penalties/statement-annex-documents/annex-7---equality-impact-assessment--welsh-language-assessment.pdf?v=399256

[10] Figure 4.2: Distribution of estimated QWR by revenue bracket https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-online-safety---fees-and-penalties/main-documents/statement-on-online-safety-fees-and-penalties.pdf?v=403589

9.8 Should evidence be received in the future suggesting that an exemption from the requirement to pay fees would be of benefit to charities or public interest bodies, Ofcom has explained that it may reconsider this.

9.9 There is no, or no significant, impact on the public sector. It is not expected that any public sector bodies will be in scope of paying fees. In addition, certain services provided by public bodies, education or childcare providers are exempt from the Act, as per Schedule 1 to the Act.

9.10 To mitigate the risk that providers that meet the QWR threshold (but only have a small presence in the UK) are discouraged from entering, or continuing to operate in the UK, Ofcom intends to create an exemption from the fee-related duties for providers whose UK referable revenue is less than £10 million in a qualifying period. See Ofcom's 'Statement on Fees and Penalties' for further details of this exemption.[11] Ofcom has the power to exempt particular descriptions of providers from paying fees under section 83 of the Act. The Secretary of State must approve any proposed exemption, or revocation of an exemption, before it may take effect. Exemptions are not subject to parliamentary scrutiny.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is covered by the requirements in the Act. Under section 86(3) of the Act, the Secretary of State must keep the threshold figure under review and under section 86(4), if the Secretary of State considers that it may be appropriate to revise the threshold figure, the Secretary of State may request Ofcom to carry out a further consultation.

10.2 In addition, under section 178(1) and (2) of the Act, the Secretary of State must review the operation of the regulatory framework provided for in the Act, two to five years after the last of the provisions of Part 3 of the Act comes into force, with a report being published and laid before Parliament.

10.3 The instrument does not include a statutory review clause because the instrument falls within the exception described in section 28(3)(a)(ii) of the Small Business, Enterprise and Employment Act 2015 (that is, the power to make these Regulations is being exercised so as to make provision in connection with provisions imposing a levy or other charge).

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The Act provides Ofcom with enforcement powers available to use against providers who fail to fulfil their duties under the Act. This includes the duty to pay fees. Section 141 of the Act allows Ofcom to give a penalty notice to a provider of a regulated service who does not pay the fee due to Ofcom in full. Ofcom may only impose such a penalty where they have first notified the provider that they propose to do so in a notice issued under this section and then given the provider the opportunity to make representations.

[11] https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-online-safety---fees-and-penalties/main-documents/statement-on-online-safety-fees-and-penalties.pdf?v=403589

11.2 The Act gives responsibility to Ofcom for two other Statutory Instruments which implement the fee regime. These were both laid in June 2025:

- The Online Safety Act 2023 (Qualifying Worldwide Revenue) Regulations 2025 (S.I. 2025/1032), which were laid before Parliament in draft, provides for how the qualifying worldwide revenue of a provider of a regulated service is to be determined;
- The Online Safety Act 2023 (Fees Notifications) Regulations 2025 (S.I. 2025/747) specifies the evidence, documents or other information that such providers must supply to Ofcom and the way in which it should be supplied to Ofcom.

11.3 Further Regulations under paragraph 7 of Schedule 10 to the Act will need to be made by DSIT to complete the final phase of the fee regime. These further Regulations will make provision for the recovery of Ofcom's initial costs of setting up the online safety regime by charging additional fees to providers. Before these further Regulations can be made the Secretary of State is required to carry out a consultation.

11.4 The territorial application of this instrument is England and Wales, Scotland, and Northern Ireland. However, fees or penalties imposed by Ofcom under the Act may apply to the providers of regulated services based outside the United Kingdom as the Act applies to online companies, platforms, and search engines that have "links with the United Kingdom". Section 4(2), (5) and (6) of the Act sets out how this is defined as services which have a significant number of UK users, target the UK market and/or there is a material risk of significant harm to UK users presented by user-generated or search content on the service, regardless of their headquarters' location.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").