

DIGITAL REGULATION

What you need to know

THE UK GOVERNMENT AND THE DATA REGULATOR HAVE RECENTLY PUBLISHED TWO LANDMARK PROPOSALS AIMED AT TIGHTENING REGULATION FOR DIGITAL COMPANIES - THE ONLINE HARMS WHITE PAPER AND THE ICO'S AGE-APPROPRIATE DESIGN CODE.

WITH BOTH PROPOSALS CURRENTLY OPEN FOR CONSULTATION, NOW IS A CRITICAL TIME FOR BUSINESSES TO ENGAGE WITH THE GOVERNMENT AND REGULATORS TO UNDERSTAND THEIR RESPONSIBILITIES AND VOICE CONCERNS.

THE GOVERNMENT'S ONLINE HARMS WHITE PAPER

THE INFORMATION COMMISSIONER'S AGE-APPROPRIATE DESIGN CODE

WHO IS IN SCOPE?



WHAT IS INCLUDED?

In scope
Potentially in scope

A statutory 'Duty of Care' for online platforms to tackle harms by complying with codes of practice, including systems, procedures, technologies & investments companies need to adopt.

Annual transparency reporting from companies on prevalence of harmful content and measures taken. Regulator can then demand insight into algorithms and research.

Who is in scope? Any online service that processes personal data under the UK GDPR and is likely to be used by children.

What does it mean? Services must assume users are under 18 and design services in line with 16 standards of age-appropriate design, including...

An independent regulator with information-gathering and sanctioning powers that monitor compliance with codes of practice.

Costs to business, e.g. levy to fund regulator and education measures, investment in safety and fines for non-compliance.

Turning profiling off as a default

Having no nudge techniques, e.g. likes, notifications, streaks or auto-play

Including the highest privacy settings by default

Not data sharing with 3rd parties unless there is a compelling reason to do so

Turning geolocation off as a default

The code must be adhered to unless... "robust" but as yet undefined age-verification mechanisms are already in place or evidence shows the service is unlikely to be used by children.

And if not? Breaching the Code is not an offence, but the ICO see adherence as a "key measure" in determining GDPR compliance.

CATEGORIES OF ONLINE CONTENT IN SCOPE

HARMS WITH A CLEAR DEFINITION	LESS CLEARLY DEFINED HARMS	UNDERAGE EXPOSURE TO ILLEGAL CONTENT
<ul style="list-style-type: none"> Criminal, abusive & terrorist content Harassment & stalking Encouraging suicide Hate crime Incitement of violence Sale of illegal goods 	<ul style="list-style-type: none"> Cyberbullying & trolling Extremist content Coercive behaviour Intimidation Disinformation 	<ul style="list-style-type: none"> Under-13s/18s accessing age-inappropriate services (incl. social media & dating apps) Children accessing pornography

GOVERNMENT IS CONSULTING ON PLANS UNTIL 1 JULY 2019 WITH A VIEW TO LEGISLATING LATER THIS YEAR.

THE ICO IS CONSULTING ON PLANS UNTIL 31 MAY 2019. REGULATIONS COULD COME INTO FORCE BY 2020.

UNCERTAIN TIMES AHEAD...

In addition to the Online Harms White Paper and the Age-Appropriate Design Code, the Government and regulators are currently exploring a wide range of policies, legislative proposals and market interventions that will affect businesses across the digital economy. Here are some of the key reviews and proposals to look out for in 2019 and beyond.

DIGITAL REGULATION: THE WIDER LANDSCAPE

PLANNED AND ANTICIPATED DATES									
	SUMMER	SUMMER	2019	2019	2019	2019	2019	2019	2020-21
	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
DIGITAL COMPETITION		BEIS competition review published		Furman Review - Govt Response published					
		CMA historic merger review published							BEIS Consumer White Paper consultation (tbc)
		CMA digital advertising market study (tbc)							
ADVERTISING, PRIVACY & DATA			CDEI microtargeting investigation						CDEI interim report published
			ICO ad tech investigation (tbc)						ICO Code on use of data in campaigns published
			DCMS review of advertising legislation						
			DHSC HFSS advertising consultation						JCHR Privacy inquiry
									Fake News Grand Committee hearing
									Lords Digital Democracy inquiry (tbc)
ONLINE SAFETY									
									Online Harms White Paper consultation
									Online Harms Bill (tbc)
									ICO age-appropriate design code consultation
									Queen's Speech (tbc)
									Final ICO age-appropriate design code published
VOD & GAMING									
									CMA consumer law investigation into online gaming memberships
									DCMS Committee Addictive Tech inquiry
									Lords Communication's Committee inquiry into PSBs
									Ofcom report on PSB prominence
									DCMS Committee inquiry into PSBs and on-demand (tbc)

WANT TO LEARN MORE? UNCERTAIN TIMES REQUIRE UNCOMMON SENSE.

Please contact Mark Burr, Director of European Digital Policy, to discuss how Hanover's technology and public affairs experts can help your organisation navigate this emerging regulatory landscape: mburr@hanovercomms.com

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