

The Joint pre-legislative scrutiny Committee: Call For Evidence on the Draft Online Safety Bill

Submission from Mobile UK

September 2021

About Mobile UK

1. Mobile UK is the trade association for the UK's mobile network operators – EE (a member of BT Group), Three, Virgin Media O2 and Vodafone. Our goal is to realise the power of mobile to improve the lives of our customers and the prosperity of the UK.
2. As mobile increasingly becomes the device of choice for running daily life both at home and at work, customers have come to expect more extensive coverage, more capacity and greater capabilities. Our role is to identify the barriers to progress, and work with all relevant parties to bring about change, be they the Government, regulators, industry, consumers or citizens more generally.

Introduction

3. Mobile UK welcomes the opportunity to make a submission to the Joint pre-legislative scrutiny Committee's call for evidence on the Draft online safety Bill.
4. For the last 17 years or so¹, the mobile operators in the UK have worked both individually and jointly in the field of child protection, mainly in respect of their role as Internet Service Providers for access to the [mobile] internet, where they have sought to mitigate the risk of children coming into contact with inappropriate content.
5. As well as the work undertaken as individual operators, partnering with NGOs such as NSPCC and Childnet, they jointly published the world's first [Code of Practice for the self-regulation of content on mobile](#) in 2004. As the successor body to the original publisher, Mobile UK has taken on responsibility for the management of the Code of Practice.
6. The principal feature of the Code is that operators apply a filter to the Internet access service by default for consumer customers. Thus, consumers cannot get access to adult content until the filter has been removed. It can only be removed once a customer has been through a robust age verification process.
7. We partner with the British Board of Film Classification (BBFC), who act as the independent body that provides the framework by which the filter was set and calibrated (i.e. helped operators with the tricky editorial decisions about what is not appropriate for children.)
8. The BBFC sets the framework and acts as an appeal body if a customer, mobile operator or website owner believes that a website is being incorrectly categorised, resulting in either under or over-blocking. Each quarter, the BBFC [publishes a summary](#) of the

¹ Since the launch of 3G, when mobile phones enabled access to the Internet

decisions it has taken.

Moving with the times

9. The mobile operators will continue to invest in child protection. Nevertheless, we recognise that other parties in the value chain have a role to play in keeping customers – both children and adults - safe online, and we thus support the broad thrust of what the Government is trying to achieve.
10. For one thing, the increased use by customers of encrypted Apps, VPN services and upcoming features such as Apple Private Relay significantly reduce the ability of ISPs to protect customers by moderating the internet access point. The protection has to happen on the platforms and content services directly.
11. Mobile UK has not provided responses to all the questions in the call for evidence, but has restricted itself to addressing those where we have direct experience or particular insight.

Mobile UK's Responses to the Questions in the Call For Evidence:

Objectives of the Bill

- 12. Will the the proposed legislation effectively deliver the policy aim of making the UK the safest to be online?**
13. The Bill presents the UK with an opportunity to provide one of the safest on-line environment's across the world and Mobile UK supports the broad thrust of the approach.
14. That said, regulating borderless Internet services is complex and, while setting appropriate rules is important, there will be a continuing need to develop better international co-operation and co-ordination among law enforcement agencies for pursuing perpetrators of harmful and criminal activity on-line.
15. The platforms and other providers must be supported by law enforcement to pursue and prosecute individuals and organisations that seek to harm UK citizens.
- 16. Will the proposed legislation help to deliver the policy aim of using the digital technologies and services to support the UK's economic growth? Will it support a more inclusive, competitive and innovative future digital economy?**
17. It is certainly very important to the continued growth of online services that people can rely on and use digital technologies with confidence.
18. There is undoubtedly, though, a tension between increasing regulation and supporting competition and innovation; regulation that is poorly thought through can increase barriers to entry and, in a situation where main the platforms already command considerable market power, their position can be reinforced rather than eroded through an extension of regulation.
- 19. Does the Bill deliver the intention to focus on systems and processes rather than content, and is this an effective approach for moderating content? What role do you see for e.g. safety by design, algorithmic recommendations, minimum standards, default settings?**

20. Mobile UK supports the overall approach and we agree that default settings have their place. For example, consumers who buy a mobile device will have the child protection filter set by default and this can only be removed once the customer has gone through a robust age verification process.
21. In a diverse distribution chain, this is the only way that operators can assure a high rate of adoption.
22. But default settings can also entrench market power and be harmful to a competitive market. Ofcom, with its dual role as a competition and content regulator is well placed to monitor and mitigate these risks.
23. **Earlier proposals included content such as misinformation/disinformation that could lead to *societal* harm in scope of the Bill. These types of content have since been removed. What do you think of this decision?**
24. In May 2021 Mobile UK made a submission to the DCMS Select Committee's Inquiry into Influencer culture², in which we stated that at the height of the global pandemic in 2020 the mobile industry became a target for conspiracy theorists who sought to link the COVID-19 outbreak with 5G.
25. On several occasions, celebrities and influencers, including a well known boxer with 2.1m & 1.3m followers on Twitter and Instagram respectively chose to support or share stories that claimed to validate the false accusations about 5G, even when it is clear this is biologically impossible. We have even been told of one occasion where a mishap with the technology led to an inadvertent post about this topic (1.9m followers on Twitter).
26. In submitting its evidence to the DCMS Select Committee, Mobile UK warned that such endorsements, even when posted unknowingly, provide credibility to claims that have no basis in science and ultimately stand to risk people's lives and health. This was particularly pertinent when the nation was working towards a strategy to defeat the COVID-19 pandemic.
27. The false linkage between 5G and COVID-19, fuelled by retweeting and even endorsement, led to abuse and intimidation of field engineers and arson attacks on mobile infrastructure, even masts that were not 5G, at a time when people critically needed a mobile connection to stay in touch with family, work and the emergency services. (On one occasion, the connectivity provided to one of the Nightingale Hospitals was impacted by an attack on a mast, not to mention the wider mobile connectivity needs of the emergency services, such as the ambulance service.)

² <https://www.mobileuk.org/news/mobile-uk-submits-evidence-to-dcms-select-committee-on-influencer-culture>

28. From April to August 2020, the industry recorded **133** arson attacks on masts and mobile equipment and over **300** incidences of abuse on telecoms staff and engineers, and these incidents persist, even though it has been widely reported that it is not biologically possible for 5G to spread COVID-19.
29. We acknowledge that Facebook did much to remove this harmful disinformation/misinformation. We strongly believe, though, that it will be feasible and will be beneficial to society at large for established and harmful disinformation to be within the scope of the Bill.
30. The same goes for the promotion of fraudulent activity that is designed to cause financial harm. The period of the pandemic has seen a significant migration of fraud to the online platforms. Consumer harm arising through online fraud is increasingly pervasive – both financial harm and emotional harm. It is a high priority to tackle this problem.
31. As a result of the rising threat, there has been much increased cooperation between communications providers, the banking sector and law enforcement. A vital component of our collective response, though, requires the participation of the major search engines and platforms. It would be very helpful for this type of harm to be in scope.

The role of Ofcom

32. **Is Ofcom suitable for and capable of undertaking the role proposed for it in the draft Bill?**
33. Mobile UK supports the proposal that Ofcom be the regulator. With its experience of regulating both content and competition matters, it has the necessary experience and holistic view of the many issues that arise.
34. It has to be a concern, nevertheless, that an enormous amount of power and influence will be delegated to a single body – a position that will be further enhanced when it takes up the further role of overseeing the Telecoms Security Requirements.
35. Government, through its Statement of Strategic Priorities, has the means whereby policy considerations can be input without compromising the independence of the regulator, but Parliament will have to give very serious consideration as to how it ensures adequate accountability for the regulator's performance, in particular for ensuring there is an environment which promotes the investment in the digital infrastructure and services that will be necessary for the UK to be a leading, competitive and resilient economy.
36. Over the years Mobile UK (and its predecessor bodies) have questioned whether occasional appearances in front of Select Committees is a sufficient way of doing this. In light of Ofcom's burgeoning power across so many aspects of national life and the economy, more resources must be devoted to assessing performance. The National Audit Office may have a role to play in setting and monitoring the key performance indicators by which Ofcom's work can be judged.

General Comment

37. What are the lessons that the Government should learn when directly comparing the draft Bill to existing and proposed legislation around the world?

38. Mobile UK's main recommendation in this regard is that any legislation will have to underpin measures that will be practical and workable to put into use. The matter in hand lies at a complex intersection of technology and law; previous efforts have foundered in the past (e.g. age verification for adult sites). All stakeholders – Government, Parliament, industry and customers must draw on this and ensure that any enacted legislation is proportionate, addresses actual harms and is practical to implement.