

DCMS Consultation – Child Safety Online: Age Verification for Pornography

Response from IAB UK, the UK trade association for digital advertising representing the UK's leading brands, media owners and agencies (www.iabuk.net/about).

Question 1: In your opinion, should age verification controls be placed on all forms of legal pornography ('sex works') online that would receive a British Board of Film Classification rating of 18 or R18?

- a. Yes
- b. No
- c. Don't know

n/a

Question 2: Do you think age verification controls should be placed on sites containing still as well as moving images of pornography?

- a. Moving images only
- b. Still and moving images
- c. Neither still nor moving images
- d. Other (please specify)
- e. Don't know

n/a

Question 3: To what extent do you agree with the introduction of a new law to require age verification for online pornographic content available in the UK?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

We are interested to hear your thoughts on how age verification controls on pornographic websites should work. For instance, these could include the kinds of Content Access Control (CAC) Systems which Ofcom requires for video-on-

demand sites that provide specially restricted material and are situated in the (a to c below).

n/a

Question 4: If age verification controls are to be required on pornographic websites, how do you think they should work (select all that apply, and please suggest other ideas that you may have).

- a. Confirmation of credit card ownership or other form of payment where mandatory proof that the holder is 18 or over is required prior to issue.
- b. A reputable personal digital identity management service that uses checks on an independent and reliable database, such as the electoral roll.
- c. Other comparable proof of account ownership that effectively verifies age. For example, possession and ownership of an effectively age-verified mobile phone.
- d. Other (please give details)

n/a

Question 5: Do you agree that a regulator should have the power to direct payment and other ancillary services to remove their services from non-compliant websites? Please give reasons.

a. Yes

b. No

c. Don't know

See response to question 11 below, which covers the same issue.

Question 6: Do you have any suggestions for other actions that could be taken to ensure that commercial providers of online pornography comply with the new law? Please give details.

a. Yes

b. No

n/a

Question 7: Do you think that the regulator should have the power to direct parent and umbrella companies of pornographic websites to comply?

a. Yes

- b. No
- c. Don't know

n/a

Question 8: Do you agree with the introduction of a civil regime to regulate pornography websites? Please explain your answer.

- a. Yes
- b. No
- c. Don't know

n/a

Question 9: Would the introduction of a new criminal offence be a better form of regulation?

- a. Yes
- b. No
- c. Don't know

n/a

Question 10: To what extent do you agree with the introduction of a new regulatory framework?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree**
- e. Strongly disagree

See answer to question 11

Question 11: Should a new framework give powers to a regulator/ regulators to (select all that apply):

- a. monitor compliance with the new law by pornographic websites
- b. notify non-compliant sites (and the companies that run them) that they are in breach of the new law

- c. direct non-compliant sites (and the companies that run them) to comply with new law
- d. notify payment providers and ancillary services of non-compliant sites on which their services are available, that the site is in breach of the new law and has not implemented age verification (despite direction from the regulator)
- e. direct payment providers and ancillary services to withdraw services from non-compliant sites
- f. issue fines to non-compliant sites
- g. set standards for age verification controls, and determine content which is in scope
- h. other (please specify)

Background

1. Much mainstream display advertising is traded programmatically, i.e. automatically and in real time¹, according to criteria set by the buyer. Advertising technology businesses provide the services that enable advertising space to be traded programmatically and this can involve a complex supply chain connecting the buyer (the advertiser) and the seller (the site publishing the ads). The advertiser will therefore not necessarily know in advance exactly where its ads will appear, or have a direct relationship with the site publishing its ads. This can lead to the risk of ad misplacement: ads appearing on sites that are inappropriate to a brand or for a particular campaign that could tarnish the brand's – or the wider industry's – reputation.
2. The online advertising industry has a strong history of effective self-regulation. The [Display Trading Standards Group \(DTSG\)](#)² is an existing self-regulatory initiative that provides the framework to minimise the risk of ad misplacement. The DTSG scheme ensures advertisers have tools to actively manage the placement of ads and has facilitated the use of PIPCU's Infringing Website List (IWL) by the online advertising industry (as referenced on p.32 of the consultation document).

The Digital Trading Standards Group self-regulatory initiative

3. IAB UK is committed to tackling advertising misplacement via the auspices of an industry body called the Digital Trading Standards Group (DTSG) which is widely supported by representatives of the businesses and sectors involved. The DTSG has published [good practice](#) for all business models that provide

¹ Programmatic trading of online advertising is automated display advertising activity that enables

² <http://www.iabuk.net/disciplines/display-trading/policy>

services to advertisers in the form of buying, selling and facilitating of digital display advertising. The intention of the principles is to:

- Significantly reduce the risk of misplacement of display advertising on digital media properties.
 - Uphold brand safety.
 - Protect the integrity of digital advertising.
4. The DTSG is comprised of representatives from advertisers, agencies, agency trading desks, demand side platforms, advertising exchanges, sales houses, advertising networks, supply side platforms and publishers. The DTSG initiative has been ratified and endorsed by the Joint Industry Committee for Web Standards (JICWEBS) - www.jicwebs.org.
 5. The DTSG [Good Practice Principles](#) outline six commitments for those involved in the buying, selling or facilitating of digital display advertising (for example: the Principles commit a Buyer and / or Seller to select or use an independently-verified Content Verification (CV) tool³ or Appropriate / Inappropriate Schedule⁴ to significantly reduce the risk of display advertising misplacement).
 6. These tools can, for example, ensure that a household brand's ads do not appear on sites of an inappropriate or undesirable nature, as determined by the brand, or – in the case of the Infringing Website List (IWL) – minimise the risk that an ad is misplaced on a site that is infringing copyright. Pornography, while not illegal, is one category of site that an advertiser could exclude from an ad campaign, for example by means of a black list of sites.

The Infringing Website List (IWL)

7. It is important to understand how the PIPCU/IWL approach to tackling copyright-infringing sites (referred to on pages 31-32 of the consultation document) supports the wider self-regulatory scheme introduced under the DTSG. In creating the DTSG principles, companies that commit to upholding good practice recognise that instances of ad misplacement can be minimised. This is especially important in environments that may risk reputational harm for brand advertisers. This includes a collective will to limit brand spend on copyright infringing sites.
8. Advertisers want to avoid misplacing ads on sites infringing copyright, but not avoid all sites legitimately providing similar content (music, film, games, etc.)

³ A CV tool is a technology product or service that may block or report the serving of a display advertisement onto destinations that have been defined as inappropriate to the advertising campaign by the Buyer.

⁴ These Schedules may include/exclude sites, URLs or applications that are deemed either appropriate or inappropriate by Buyers and Sellers.

which would not be deemed 'inappropriate' for most brands. It is not appropriate for advertisers and advertising technology providers to determine whether a particular site is infringing copyright and therefore illegal, which is why a specific, PIPCU process is in place to identify those sites.

9. The IWL is a list of sites that have been referred to PIPCU by rights-holders, and have been evidenced and verified by the Police as having a primary purpose of infringing copyright. The list then functions as an 'inappropriate schedule' within the DTSG good practice principles (see paragraph 5 above) and brand advertisers can mandate that their trading partners use it. It is important to note that the PIPCU IWL is not a self-regulatory initiative in its own right: it provides a data input for the tools that are used to manage the placement of digital ads under existing self-regulatory good practice.

How the DTSG could support the policy objective of regulation of pornography sites

10. The DTSG exist to protect against the misplacement of brand advertising. The consultation document notes that the levels of brand advertising on pornography sites is limited. An IWL-style list of non-compliant pornography sites, therefore, would have limited impact. We accept, however, that there will be advertisers who are willing to advertise on such sites and will wish to be informed of sites which are not compliant.
11. The consultation document seeks views on 'the ongoing role for advertisers in ensuring the safety of children online, and particularly in delivering age verification on pornographic sites'. We believe that, if the Government's policy goal is to encourage buyers not to buy advertising inventory on non-compliant sites, the self-regulatory DTSG initiative could be used to support the wider policy objective of regulating providers of commercial pornographic content. In the same way that the DTSG provides a mechanism by which the IWL is used to avoid advertising on copyright infringing sites, the DTSG could – subject to further consultation – similarly provide the framework for a list of non-compliant pornography sites to be used as an 'inappropriate schedule' (see paragraph 5 above).
12. In order to build confidence in a list of sites not complying with age verification rules, it would need to be compiled by an independent body, ideally the regulator.
13. Government must be mindful however that, under the DTSG principles, the use of schedules is at the discretion of advertisers so this approach would not be a comprehensive solution, were this Government's goal.

Other considerations

14. Page 22 of the consultation document states '...we would expect ... companies to make greater efforts to know their customers (the porn sites that ...host their

advertising, for example), and to ensure that the sites using their services are legally compliant’.

15. Brand advertisers and their suppliers, through existing brand safety initiatives such as the DTSG described above, already take steps to control where their ads are being placed. Advertising suppliers cannot themselves ‘ensure’ that a site is legally compliant, however, and an advertiser (or its suppliers) should not be held responsible for the legal compliance or otherwise of the site hosting its ads, or for ‘sanctioning’ sites that are in breach of the age verification rules.
16. Depending on the process used to place ads on a website, removal of ads may not be possible without cooperation from the site, as the publisher of the ad. We would expect that much of the display advertising appearing on pornography sites is not traded programmatically, but is delivered through a more direct relationship between the advertiser and the publisher site. In that case, the publisher (or someone on their behalf) controls the appearance of ads and would need to take action to remove them from the site.

General comment on potential powers outlined in options (a) to (f)

17. The consultation document is unclear as to the policy intention, particularly in relation to options (d) and (e) and how these options might work in practice. Our comments in response to question 11 are therefore caveated to this effect: we will be able to provide a full and detailed responses after further discussion.
18. The possible powers outlined in these options are also not, in our view, of equal order. There should be a clear distinction between the types of power a regulator needs to encourage or enforce compliance by pornography sites with any new regulation, and the role that other sectors can play to help support the policy objective. The powers described in options (a), (b), (c) and (f) in question 11 relate to the sites themselves and possible remedies to achieve compliance with the rules by pornography sites. We believe that options (d) and (e) (subject to our specific comments on those options below) can only be considered tactical measures **after** other compliance and enforcement options aimed at the pornography sites themselves have been exhausted.

With reference to option (d) – notification

19. If the Government’s policy intention in relation to advertising is to discourage advertisers from buying advertising space on non-compliant sites, in order to limit this revenue stream, then we believe that this could be achieved via option (d), and that the self-regulatory DTSG framework could support a notification process.
20. Given the existing tools that are used by advertising technology providers to comply with the DTSG good practice principles, we would favour the regulator operating a ‘blacklist’ approach to notification. Advertisers could then mandate that their suppliers should make use of this list to ensure that they do buy

space on those sites, and technology providers could use existing tools to achieve this in practice.

21. It is not clear from the consultation document precisely how the Government intends a notification process to work. It should not be the responsibility of advertisers and providers of advertising technology to determine which websites are non-compliant with any new UK regulation. A suitably qualified and authorised body should be tasked with identifying those sites and sharing a list with advertisers.
22. Any such list would need a proper process of appeal/objection against inclusion as well as a process of updating the list/notification if a site subsequently becomes compliant. It would also need to be easily accessible and in a format that is easily usable for the digital advertising industry. The next phase of the consultation process must clarify this and the online advertising industry should be consulted on any specific proposals. The IAB stands ready to inform this process.
23. In addition to helping protect brand safety, the IWL aims to limit the revenue (and perception of legitimacy) that infringing sites gain from brand advertising. Pornography sites do not have the same business model, however, and – based on our understanding – brand/mainstream advertising is not a significant third party source of revenue for pornography sites. The consultation document acknowledges this (p. 23) and highlights that most advertising appearing on these sites is for other sites of the same nature, often owned by the same parent company and often aimed at generating revenue via subscriptions. As there is effectively a ‘closed loop’ of advertising buyers and sellers, the impact on a non-compliant pornography site of enabling or requiring the removal of third party advertising is likely to be minimal. This is very different to sites that have a primarily ad-funded business model and rely on third-party advertising for the majority of their revenue, which many copyright-infringing sites do.
24. Notwithstanding its likely limited impact, IAB UK would support notification to the advertising industry on the grounds described above. We and our members are happy to support the Government in developing more detailed proposals by providing information and advice about the online advertising industry and how it works.
25. In the case of age verification for pornography, however, we reiterate that mainstream brand advertisers and their suppliers who are represented by the IAB are highly unlikely to place advertising on pornography sites and so are not key players in that particular ecosystem. There is a limit, therefore, to what we and our members can do through the DTSG and self-regulation to support the Government in achieving its policy objectives in this area.
26. Additionally, as mentioned in response to question 6, where there is third party advertising on pornographic sites it may be facilitated by technology providers outside the DTSG or originate from overseas advertisers. The Government

must consider other remedies for these cases, as the Intellectual Property Office has done in respect of its work to address online copyright infringement.

With reference to option (e) - direction

27. As with option (d), the consultation document does not provide sufficient detail about this proposal, including when such a power may be invoked and what the process would entail.
28. If the policy intention is different, and the Government intends to empower a regulatory body to *direct* advertisers to withdraw services from non-compliant pornography sites, then this would require a different approach to the DTSG framework. This would involve formal regulation of online advertising. We set out here some initial views on the proposal for a regulator to have a power of direction.
29. As a minimum, the fact that a site is non-compliant and therefore included on an advertising 'blacklist' would need to be determined by a body with the legal authority to do so. Advertisers and their suppliers would need proper assurances that their liability is limited should they withdraw advertising from or refuse to trade with a site deemed to be non-compliant.
30. It is not clear from the consultation document when, how, or to whom a regulator might issue a direction. In our view, direction should only be considered as a last resort.
31. If this option remains under consideration following this phase of the consultation process, the Government must clarify its intention and consult the industry further on specific proposals. The IAB is happy to provide more information to Government and have more detailed discussions with officials to help ensure that any potential proposals being considered are appropriate and workable for the online advertising industry.

Scope/definitions

32. Our understanding, based on the consultation document, is that any new regulation of pornography sites would be limited to those sites whose primary commercial purpose is the provision of adult content. Platforms (and businesses advertising on or providing services to them) that may contain some adult content but whose primary purpose is not the commercial provision of that content would be out of scope. The Government should clearly define the websites that are within the scope of this approach, i.e. what is meant by 'commercial providers' and, by extension, the advertisers and ancillary service providers linked to them.

Question 12: Do you think that a co-regulatory approach involving more than one regulator would be appropriate in this context?

a. If yes,

- **which regulator(s) should have a role?**
- **which (if any) other stakeholders should have a role (e.g. industry)?**
- **what should their respective roles be (please refer to the list of potential roles at question 11)?**

b. If no,

- do you think that a single regulator would be more appropriate? If so, please specify which regulator, if you have a view.

c. Don't know

We do not have a strong view as to whether there should be a single regulator, or a co-regulatory approach for adult content sites. To the limited extent that the mainstream online advertising industry can support measures to avoid advertising on non-compliant pornography sites, we believe that the existing self-regulatory approach for ad misplacement – DTSG – could be a route to help deliver the policy outcomes, as described in our response to question 11. However, the giving of notifications of non-compliant sites or issuing directions to advertising technology providers must be carried out by a statutory body.

Question 13: Do you agree that the regulator's approach should focus on having the greatest proportional impact, for instance by looking at the most popular sites, or those most visited by children in the UK?

a. Yes

b. No

c. Don't know

n/a

Question 14: Wherever new regulation is proposed, the Government must consider impacts on smaller and micro-sized businesses (those with fewer than 50 employees) based in the UK, and whether these impacts are proportionate.

Should smaller and micro-sized businesses (such as some payments and ancillary services) be exempt from the scope of the policy?

a. Yes

b. No

c. Don't know

n/a

Question 15: Overall, are you broadly in favour of the proposals set out in the consultation?

- a. Yes
- b. No
- c. Don't know

In principle we support the development of a process for a regulator to notify the industry of sites in breach of the rules via a blacklist approach that would be used by buyers supporting the existing self-regulatory DTSG framework (subject to appropriate consultation, and the conditions set out earlier in our response). It is not currently possible for us to say definitively whether we support the Government's proposals until more specific detail is provided. We are very happy to provide information and support to the Government as it develops its proposals further.

Question 16: How effective do you think the Government's preferred approach would be in preventing children from accessing online pornography?

- a. Extremely effective
- b. Very effective
- c. Moderately effective
- d. Slightly effective
- e. Not effective at all
- f. Don't know

In the context of the proposals around advertising, as we have said earlier in this response, brand/mainstream advertising is not a main 'third party' source of revenue for pornography sites. Complementary approaches are likely to be required to engage with all those who are advertising on pornography sites (including those outside the UK).

Additional comments: expert panel report

While we recognise that the parts of the report to which we refer below are not explicitly reflected in the Government's proposals included in the consultation, we would like to highlight the following:

1. The content of the report in relation to online advertising on pages 12-13 should not be relied on by the Government or others as an authoritative or definitive description of how online advertising works, or how behavioural targeting of advertising works. We are very happy to provide more information to the Government about this if needed.

2. The advertising industry, including the online advertising sector, has a strong history of effective self-regulation. Online advertising is not necessarily difficult to regulate simply because it has a complex ecosystem, as suggested on page 13 of the report. However any regulatory or self-regulatory approaches need to take into account this complexity.
3. IAB UK believes strongly that promoting ad-blocking is not a proportionate or appropriate 'solution' to the perceived risk of children seeing unwanted ads for pornography. The information in the report about ad-blocking should not be relied upon as authoritative or definitive by the Government or others. Again, we are very happy to provide more information on this topic if that would be helpful.