



Digital Economy Act 2017

2017 CHAPTER 30

PART 3

ONLINE PORNOGRAPHY

20 Financial penalties imposed by regulator

- (1) The age-verification regulator may impose a financial penalty on a person under section 19(1) or (10) of such amount as the age-verification regulator considers appropriate and proportionate to the contravention, or failure to comply, in respect of which it is imposed.
- (2) But the amount must not exceed whichever of the following is greater—
 - (a) £250,000;
 - (b) 5% of that person’s qualifying turnover (if any).
- (3) For the purposes of subsection (2), a person’s “qualifying turnover” is—
 - (a) the amount of that person’s turnover for that person’s most recent complete accounting period; or
 - (b) where the age-verification regulator is deciding the amount of the penalty at a time when that person’s first accounting period has not yet ended, the amount that the age-verification regulator estimates to be that person’s likely turnover for that period.
- (4) For the purposes of subsection (3), the amount of a person’s turnover for an accounting period is, in the event of a disagreement between that person and the age-verification regulator, the amount determined by the age-verification regulator.
- (5) In deciding the amount of the financial penalty, the age-verification regulator must have regard to the guidelines or revised guidelines in force under this section.
- (6) A financial penalty under section 19(1) or (10) must be imposed by notice given to the person on whom the penalty is imposed.
- (7) The notice must—

Status: This is the original version (as it was originally enacted).

- (a) fix a time by which the penalty must be paid by that person to the age-verification regulator; and
 - (b) in the case of a financial penalty under subsection (1) of section 19, specify the determination made by the age-verification regulator under that subsection.
- (8) A financial penalty received by the age-verification regulator must be paid into the Consolidated Fund.
- (9) The age-verification regulator must publish the guidelines it proposes to follow in deciding the amount of a financial penalty under section 19(1) or (10).
- (10) The age-verification regulator may revise the guidelines from time to time and must publish any revised guidelines.
- (11) The guidelines and any revised guidelines must be published in whatever way the age-verification regulator considers appropriate for bringing them to the attention of the persons who, in its opinion, are likely to be affected by them.
- (12) The Secretary of State must lay before both Houses of Parliament the guidelines, and any revised guidelines, published under this section.
- (13) Before publishing the guidelines or any revised guidelines, the age-verification regulator must consult—
 - (a) the Secretary of State; and
 - (b) such other persons as it considers appropriate.
- (14) Before deciding how to publish the guidelines or any revised guidelines, the age-verification regulator must consult the Secretary of State.
- (15) In subsection (3)—
 - “accounting period”, in relation to a person, means a period in respect of which accounts are prepared in relation to that person or, where that person is an individual, in respect of that person’s principal business;
 - “turnover”, in relation to a person, means the amounts derived from the provision of goods and services by that person, after deduction of trade discounts, value added tax and any other taxes based on the amounts so derived.