

Title: Online Safety Act (2023) Categorisation Thresholds IA No: DSIT002(FIA)-24-SOH RPC Reference No: RPC-DSIT-5361(1) Lead department or agency: The Department for Science, Innovation and Technology Other departments or agencies:	Impact Assessment (IA)
	Date: 12 December 2024
	Stage: Development/Options
	Source of intervention: Domestic
	Type of measure: Secondary Legislation
	Contact for enquiries: Marcus Wright (marcus.wright3@dsit.gov.uk)
Summary: Intervention and Options	RPC Opinion: Fit for purpose

Cost of Preferred (or more likely) Option (in 2019 prices, 2020 base year) ¹			
Total Net Present Social Value	Business Net Present Value	Net Cost To Business Per Year	Business Impact Target Status
See below	-£133.0m	£15.4m	77.0Error! Bookmark not

What is the problem under consideration? Why is government action or intervention necessary?

- What are the current or future harms that are being addressed?

All user-to-user and search services in scope of the Online Safety Act (OSA) must protect all UK users from illegal content and, if children are likely to access their service, protect children from content that is legal but nonetheless harmful to them. In addition, a smaller subset of services will be designated as Category 1 (large user-to-user services), Category 2A (large search services) or Category 2B (other regulated user-to-user services), and must comply with additional duties, which are set out in the legislation (Annex A).

Some of these additional duties are aimed at tackling current harms, for example, fraudulent advertising (Category 1 and 2A) and content which falls into scope of the user empowerment duties (Category 1). This includes content that promotes, encourages, or provides instructions for suicide, self-harm or eating disorders, and content that is abusive, or incites hate, based on the characteristics which are set out in section 16 of the Act. Where users are likely to access this content, Category 1 providers will be required to proactively offer optional features to adults which reduce the likelihood of users encountering such content or alert them to the nature of it. The duties have been designed to be tech neutral and focus on systems and processes, so that they are futureproofed to deal with harms posed by new and emerging technology.

- Why is government best placed to resolve the issue?

A duty is given to the Secretary of State under Schedule 11 of the OSA to make regulations specifying threshold conditions for categorisation, as soon as reasonably practicable after receiving advice from Ofcom.

¹ This impact assessment develops the appraisal of the Online Safety Act (2023) which was assessed under the old Better Regulation Framework. For comparability with the Online Safety Act Enactment IA, figures have been presented in 2019 prices and 2020 base year.

What are the policy objectives of the action or intervention and the intended effects?

- What are the intended outcomes of intervention?

To set thresholds for Category 1, Category 2A and Category 2B as required by the OSA, to be used by Ofcom to assess services against these thresholds and designate them in a register of categories of services. This will mean that services which fall into these thresholds must comply with additional safety duties which apply to their category, which will in turn protect users from further online harm. Ofcom will also create a list of emerging Category 1 services as required by the OSA using these threshold conditions. Services will be placed on this list if they meet the conditions set out in section 97, such as whether the number of users they have is 75% of the user number threshold in the Regulations. To inform this, Ofcom will use its statutory information gathering powers to request the relevant information from services, including information about user numbers and relevant functionalities/characteristics.

- What are the desired effects – what will change because of intervention?

Services that are on Ofcom's register of categorised services must comply with relevant additional duties, which will provide additional protections for users online.

- What will the indicators of success be?

Categorised businesses complying with their new duties, summarised in Annex A.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

A non-regulatory option is not possible, as the OSA requires the Secretary of State to make regulations on categorisation. The policy option of "do nothing" would halt implementation of the OSA, as without the regulations on categorisation thresholds, Ofcom would not be able to designate services as Category 1, Category 2A or Category 2B, and they would not be required to comply with additional duties.

The option of diverging from Ofcom's advice on the thresholds was considered. However, the Secretary of State was content with Ofcom's advice for Category 1, 2A, and 2B on user numbers, functionalities and, where relevant characteristics (as set out in Annex B) and has made the Regulations on this basis having considered factors as required by the OSA. It was assessed that this was the most robust approach, as it was based on evidence and their regulatory judgement.

Whilst Schedule 11 does allow for a threshold condition to be set for Category 1 or 2B without a user number threshold, this was not recommended by Ofcom. Ofcom note in paragraph 3.30 of their advice why they discounted a threshold condition for Category 1 which only referenced functionalities and characteristics and in paragraph 5.25 their rationale for setting the recommended user number threshold for Category 2B.

Will the policy be reviewed? As part of the OSA. If applicable, set review date: TBD

Is this measure likely to impact on international trade and investment?	No			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible: **Rt Hon Peter Kyle
MP, Secretary of State for Science, Innovation
and Technology**



Date:

28/11/24

Summary: Analysis & Evidence

Policy Option 3

Description:

FULL ECONOMIC ASSESSMENT

Price Base	PV Base	Time Period	Net Benefit (Present Value (PV)) (£m)		
2019	Year: 2020	10 Years	Low: See below	High: See below	Best Estimate: See below

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0.1m	1	£5.5m	£55.1m
High	£0.3m		£22.9m	£230.0m
Best Estimate	£0.2m		£13.2m	£133.0m

Description and scale of key monetised costs by ‘main affected groups’

The core costs involved in this piece of legislation are the duties that Category 1, Category 2A, and Category 2B providers will face. The costs per provider increase the higher the category that they are in, as they face more duties. There are also familiarisation costs that all providers in scope will face, where providers must read Ofcom’s codes and guidance and put in place processes to comply with the duties they face.

Other key non-monetised costs by ‘main affected groups’

One of the duties expected of Category 1 providers would cover the protections for news publisher and journalistic content, and content of democratic importance. This specific duty has not been quantified, as there is very limited evidence in this field. Providing user empowerment tools, required to be undertaken by Category 1 providers, has also not been quantified due to lack of evidence.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				See below
High				See below
Best Estimate				See below

Description and scale of key monetised benefits by ‘main affected groups’

The benefits from this regulation would flow from reducing the impact of online harms experienced in the UK, as the duties that categorised providers must meet make the online experience of UK users a safer one. This IA uses a “break even” approach, where we demonstrate that the quantum of benefits, in terms of mitigated online harms, required to offset the costs of regulation, is small and achievable relative to total online harms.

Other key non-monetised benefits by ‘main affected groups’

Providing user identity verification options, as required for Category 1 services, can give users more control over their online experiences leading to a more positive and personalised user experience. The duty to protect content of democratic importance could help safeguard the integrity of democratic processes.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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Most estimates for compliance costs follow the approach of the OSA Enactment IA that was published in October 2024. However, these are dynamic sectors so some assumptions may be out of date and some duties have not been costed where insufficient evidence is available at the time of modelling.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:	
Costs: £19.1m	Benefits: See above	Net: £19.1m		
			77.0	

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Evidence Base

Problem under consideration and rationale for intervention

1. This secondary legislation sets the thresholds for Category 1, Category 2A and Category 2B services under the OSA. Services that fall into each of these categories must comply with additional safety duties, to decrease the potential online harm users experience when using online providers and services, thus reducing the risks they face online.
2. While some online providers in scope may already comply with the duties in the OSA, this secondary legislation will allow Ofcom to create a register of categorised services and hold these services to account on additional duties relating to online safety. Users will have a safer experience across providers they use when it comes to the prevalence of online harms.
3. Government must set these thresholds, as there is a duty on the Secretary of State under Schedule 11 of the OSA to make these regulations. Having completed the relevant research, and in their role of the online safety regulator, once the Regulations are in force, Ofcom must create a register of categorised services (Category 1, Category 2A and Category 2B) and a list emerging Category 1 services which will need to be kept up to date.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

4. The evidence, data and assumptions gathered for this IA are derived from the Enactment IA for the OSA, and updates and applies them to the specific category thresholds that have been set out by Ofcom in their categorisation advice¹.
5. Due to a lack of internal and external evidence, assumptions have been made in some of the estimates set out below. These are largely minor assumptions and do not affect the order of magnitude of the cost estimates. All assumptions made have been set out clearly within the cost section below.
6. There are two uncosted duties: “protections for news publisher and journalistic content, and content of democratic importance” and “providing user empowerment tools”. As explained in the key non-monetised costs section, this is due to a lack of available evidence on the prevalence of journalistic content on in-scope providers currently, as well as the cost of user empowerment tools.

Description of options considered

7. **Option 1 – ‘Do nothing’/non-regulatory option:** This option would halt implementation of the OSA, as without the categorisation thresholds Ofcom would not be able to create a register of categorised services and enforce key duties in the Act. If this option was progressed, then services would not be Categorised as Category 1, 2A, or 2B, and so would not be subject to the additional duties of their category. This includes transparency reporting and bereaved parents’ access to data (Category 1, 2A, and 2B), enhanced risk assessment and record keeping and fraudulent advertising duties (Category 1 and 2A), as well as user empowerment, user verification, terms of service duties, protections for news publishers, journalistic content and content of democratic importance, and an impact assessment on freedom of expression and privacy (Category 1). The full table of duties is set out in Annex A. Schedule 11 of the OSA also requires Ofcom to carry out research into the categorisation and following this, the DSIT SoS must make regulations are reasonably practicable. This option would not deliver the desired outcome of the legislation and is not possible as the DSIT SoS is bound to make regulations.
8. **Option 2 – Deviate from Ofcom’s advice:** Schedule 11 of the OSA provides the Secretary of State with the power to diverge from Ofcom’s advice on setting thresholds for categorisation. In this case, the Secretary of State must publish a statement explaining why they departed from the advice.

¹ <https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/categorisation-research-and-advice/>

9. **Option 3 – Accept Ofcom’s advice – government’s preferred approach:** This option would follow the advice put forward by Ofcom, published on 25 March, which suggested two different criteria for Category 1, and one criterion each for Category 2A and 2B, based on research undertaken on user numbers, functionalities and any other factors/characteristics considered relevant. The full recommendations are set out in Annex B. This is the government’s preferred approach as it is based on Ofcom’s evidence and regulatory judgement on user number thresholds, and relevant functionalities, factors/characteristics.

Policy objective(s)

10. Ensuring clarity for services: As a result of the government making regulations on categorisation thresholds, Ofcom must create a register of categorised services. Services in scope of the OSA will be made aware if they fall into Category 1, 2A or 2B, and must comply with additional duties. In addition, user-to-user services that meet the conditions set out in section 97 of the OSA and are close to reaching the Category 1 threshold, will be placed on the ‘List of emerging Category 1 services’ by Ofcom. This process provides services with notice that they are close to reaching the relevant Category 1 threshold and may, in the future, have to comply with additional obligations.
11. Implementing the OSA, to keep users’ safe: The categorisation thresholds are an integral part of the implementation of the OSA. Ofcom will only consult further on draft codes and guidance in relation to additional duties on these services, such as user empowerment, once the Regulations have been made. Delaying setting thresholds for each category would halt additional protection for users.

Summary and preferred option with description of implementation plan

12. The regulations will set the thresholds for Category 1, Category 2A and Category 2B services in secondary legislation. To establish a register of categorised services, Ofcom will use its statutory information gathering powers to request the relevant information from services, including information about user numbers and relevant functionalities/characteristics. Where an additional duty is subject to a code of practice, that duty will not apply until a code of practice in relation to the particular duty is in force (see section 51 of the OSA). Ofcom also has a duty to provide guidance to support compliance with various duties such as relating to record keeping and review, user verification, user empowerment and terms of service (sections 52, 53, 65 and 73). In relation to specific duties, such as the user empowerment assessment, Category 1 services will have three months to complete the assessment and there is a provision to request an extension (Schedule 3).
13. Once the regulations have been approved by Parliament and are in force, services can with some certainty be able to assess if they have the user numbers, characteristics and functionalities to meet the thresholds. Ofcom must also create and publish a list of emerging Category 1 services, which will give notice to those that are close to reaching the relevant thresholds (should they meet the conditions set out in section 97, such as whether the number of users they have is 75% of the user number threshold in the Regulations).
14. As the regulator for the Online Safety regime, Ofcom will be responsible for the enforcement of the new arrangements once the thresholds have been set out in regulations by the government.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

15. All costs and benefits are presented in 2019 prices with 2020 base year, to enable comparison with the OSA Enactment IA. Figures in tables are the revised aggregate costs for categorised providers, unless otherwise stated, not the increase/decrease from the OSA Enactment IA.

Direct costs and benefits to business calculations

16. All costs estimated below are direct costs to business in aggregate. All regulations require providers to comply with the duties set out by Ofcom’s guidance depending on the category they fall under.

17. Estimated costs to business fall under two main categories, familiarisation costs and compliance costs
18. **Familiarisation costs** – the cost for providers to familiarise themselves with the categorisation guidance and understand what is expected of them as categorised businesses.

Familiarisation with the guidance on additional duties for categorised providers

19. As of the time of writing, Ofcom has published several consultations on draft guidance and codes of practice. However, neither the consultations nor the codes of practice have been finalised, and no guidance/codes have yet been published on the additional duties for categorised services. The OSA Enactment IA takes account of this and has the assumptions made there have been transferred into this IA.² The cost of providers familiarising themselves with this unpublished guidance amounts to £0.1m-£0.3m as set out in Table 1 below:

Table 1 – Aggregated cost of familiarisation with unpublished guidance on the categorised firms’ duties

	Low	Central	High
Total unpublished guidance familiarisation costs	£0.1m	£0.2m	£0.3m

20. **Duties compliance costs** – This section estimates the aggregate cost of compliance for providers, based on the additional duties that they will subject to, and the number of providers expected in each category. All the costs associated with the duties listed below are adjustments of earlier estimates from the Enactment IA using new estimates for the number of providers in each category. As such, the methodological approach reflects that of previous IAs.
21. The Enactment IA assumed that there would be 20 Category 1 and 2A providers and 30-40 total categorised providers.³ The Secretary of State’s decision leads to the estimated numbers of providers in scope of each category set out in Table 2 below:

Table 2 – Change in number of providers in scope since Enactment IA, by category

	Category 1	Category 2A	Category 2B	All Categories
Enactment IA	18	2	10-20 (best 15)	30-40 (best 35)
Categorisation SI	11-15 (best 13) ⁴	2	24-38 (best 28)	37-55 (best 43)
categorisation SI/Enactment IA ratio	61% – 83%	100%	240% – 190%	123% – 138%

22. We have applied the ratios to the costs estimated in the Enactment IA to produce revised total compliance costs. These reflect the change in costs because of this SI changing the number of categorised providers expected to be subject to higher duties. These revised costs are set out in Table 3 below.

Table 3 – Revised aggregated compliance costs, applying category providers ratios to Enactment IA cost estimates

	Low	Central	High
Transparency reporting	£1.0m	£8.3m	£13.9m

² For further information about methodology see Break-out Box 8 of the OSA Enactment IA

³ For further information about methodology see *Categories of regulated services*, paragraph 78 of the OSA Enactment IA

⁴ These figures are lower by one, compared to Ofcom’s analysis, because one organisation that Ofcom anticipates being in scope has no UK presence, and is therefore outside the scope of impact appraisal per the HMT Green Book.

Requirements on risk assessments and record keeping	£5.6m	£12.0m	£18.4m
Additional terms of service duties	£8.0m	£11.4m	£17.5m
Providing user empowerment tools	N/A	N/A	N/A
Providing user identity verification options	£5.0m	£8.0m	£10.5m
Prevention of fraudulent advertising⁵	£34.3m	£89.9m	£159.0m
Disclosure of information about use of the service by a deceased child user⁶	£0.6m	£1.3m	£1.9m
Duty to conduct an impact assessment on freedom of expression and privacy	£0.6m	£1.7m	£8.2m
Protections for news publisher and journalistic content, and content of democratic importance	N/A	N/A	N/A
Total	£55.2m	£133.0m	£229.0m

23. Compared with the OSA Enactment IA, our estimates of compliance costs have fallen by between £35.9m and £58.9m, as set out in Table 4 **Table 4** below. The fall in costs is driven by the reduction in the estimate of the number of providers in Category 1, though this is counteracted to a small extent by an increase in the number of providers in Category 2B. Because the bulk of compliance costs fall on Category 1 and Category 2A providers, the change in the expected number of Category 1 providers has more influence on the estimated costs than an equivalent change in Category 2B providers.

⁵ The overwhelming majority of compliance costs arising from prevention of fraudulent advertising requirements are distributed across advertisers, not providers.

⁶ Not a category specific cost. There is one overall cost, not broken down by category

Table 4 – Reduction in aggregated compliance costs estimates compared with OSA Enactment IA

	Low	Central	High
OSA Enactment IA (relevant duties only)	£91.1m	£187.0m	£288.4m
Following categorisation IA (relevant duties only)	£55.2m	£133.0m	£230.0m
Difference (Enactment IA – categorisation IA)	£35.9m	£54.3m	£58.9m

24. The breakdown of revised compliance costs for Category 1 providers is set out in Table 5 below.

Table 5 – Category 1 revised aggregated compliance costs estimates

	Low	Central	High
Transparency reporting	£0.3m	£2.5m	£3.8m
Requirements on risk assessments and record keeping	£4.7m	£10.4m	£16.2m
Additional terms of service duties	£8.0m	£11.4m	£17.5m
Providing user empowerment tools	N/A	N/A	N/A
Providing user identity verification options	£5.0m	£8.0m	£10.5m
Disclosure of information about use of the service by a deceased child user⁶	N/A	N/A	N/A
Prevention of fraudulent advertising⁵	£29.0m	£77.9m	£134.0m
Duty to conduct an impact assessment on freedom of expression and privacy	£0.6m	£1.7m	£8.2m
Protections for news publisher and journalistic content, and content of democratic importance	N/A	N/A	N/A
Total	£47.6m	£112.0m	£196.0m

25. The breakdown of revised compliance costs for Category 2A providers is set out in Table 6 below.

Table 6 – Category 2A revised aggregated compliance costs estimates

	Low	Central	High
Transparency reporting	£0.1m	£0.4m	£0.5m
Requirements on risk assessments and record keeping	£0.9m	£1.6m	£2.2m
Prevention of fraudulent advertising⁵	£5.3m	£12.0m	£18.7m
Disclosure of information about use of the service by a deceased child user⁶	N/A	N/A	N/A
Total	£6.2m	£14.0m	£21.3m

26. The breakdown of revised compliance costs for Category 2B providers is set out in Table 7 below.

Table 7 – Category 2B revised aggregated compliance costs estimates

	Low	Central	High
Transparency reporting	£0.7m	£5.4m	£9.6m

Disclosure of information about use of the service by a deceased child user⁶	N/A	N/A	N/A
Total	£1.0m	£5.4m	£9.6m

27. We have applied these ratios to the costs estimated in the Enactment IA to reflect the change in total compliance costs because of this SI changing the number of categorised providers expected to be subject to higher duties.

Notes on duties and estimates, where applicable

28. **Transparency reporting – applies to Category 1, 2A, 2B:** All providers must release transparency reports, disclosing key metrics and information about digital governance and enforcement measures on their providers. Ofcom will consider a range of factors in determining what information providers will need to produce in their reports. This includes (but is not limited to) the kind of service provided, its functionalities, its user base. It is likely that the information requested will vary between different services. In every case, however, Ofcom must consider the capacity of the provider of the service. Therefore, while relevant compliance costs will vary, disproportionate outcomes should not arise.
29. **Requirements on risk assessments and record keeping – applies to Category 1, 2A:** We expect the duty regarding enhanced risk assessment and record keeping, as set out in sections 10(9), 12(14), 23(10) and 34(9), to have minimal associated compliance costs, as they build on existing duties that all services will already have to comply with. Ofcom have already consulted on proposals relating to these duties.
30. **Additional terms of service duties – applies to Category 1:** The terms of service duties are subject to proportionality, which, in particular, requires that the size and capacity of the service provider must be taken into account (among other things). The existing breadth and extent of a service’s existing rules may also affect the initial cost. We therefore expect costs to providers to vary on this basis. Ofcom will produce guidance for providers of Category 1 services to assist them with complying with these duties.
31. **Providing user empowerment tools – applies to Category 1:** Category 1 providers will be required to offer optional user empowerment tools to all their adult users to the extent it is proportionate to do so. As discussed in the Online Safety Act Enactment IA, user empowerment duties cannot be appraised at this time, because Ofcom has not defined how providers can comply, and providers do not have an estimate of compliance costs until that occurs.
32. In determining what is proportionate when offering user empowerment content tools, the Act sets out that the findings of the most recent user empowerment assessment including the incidence of user empowerment content on their service, and the size and capacity of the service are relevant. Ofcom will set out in a code of practice how companies can comply with the user empowerment tools duty and in guidance how companies can comply with their user empowerment assessment duty. Therefore, in instances where smaller services have this duty, or a service assesses that they have (and can evidence) a low incidence of user empowerment content, we expect initial set up costs and ongoing compliance costs to be minimal.
33. **Prevention of fraudulent advertising – applies to Category 1, 2A:** Fraudulent advertising is the third largest impact estimated in the OSA Enactment IA (£120m in the central scenario). The modelling considers costs come from setting up anti-fraud processes (4%), customer due diligence (CDD) checks by the platforms (37%), staff time for the advertisers completing the CDD checks (53%), and staff time for advertising agencies facilitating the CDD checks (6%), based on similar financial services regulations. Most of the costs are distributed across advertisers, not online services providers.
34. Compliance costs for Category 1 and 2A services will vary based on the nature, severity and potential harm to individuals presented by such content and the degree of control a provider has in relation to

the placement of adverts. Ofcom will publish a code which sets out measures recommended for the purpose of compliance with this duty.

35. **Disclosure of information about use of the service by a deceased child – Category 1, 2A, 2B:** Ofcom will publish guidance for how providers can comply with this requirement, however, in advance of that guidance the OSA Enactment IA has estimated the cost for firms to respond to requests regarding a deceased child's account.
36. Though some providers have processes in place for bereaved family to interact with a deceased person's account, there is no statutory right to receive information about social media activity.
37. We expect the set-up costs to be similar across the board as all categorised services must make clear what their policies are for dealing with such requests and complying with the duties. We expect that ongoing compliance costs will vary depending on the size of the service, the policy they adopt, and the number of requests. Ofcom will produce guidance to support providers of categorised services in complying with these duties.
38. **Duty to conduct an impact assessment on freedom of expression and privacy – applies to Category 1.** This duty builds on existing duties to have regard to these factors when adopting measures to comply with the safety duties. The final duties which are protections for news publishers and journalistic content, and content of democratic importance – which are all only applicable to Category 1 services - has not been quantified, as the OSB IA did not either. Upon revisiting the duty, we have not been able to find any new evidence internally or externally that would be suitable to help quantify this.
39. **Duties related to protections for news publisher and journalistic content, and content of democratic importance – applies to Category 1.** In determining what is proportionate for the duties related to content of democratic importance, the size and capacity of the provider of a service is relevant. We expect that the costs for smaller service will therefore be reduced. In addition, in instances where services may be required to comply with this duty, but do not have any content of democratic importance, we anticipate that ongoing compliance costs will be minimal. Ofcom will be producing a code of practice on these duties.
40. In determining what is proportionate for the duties to protect journalistic content, the size and capacity of the provider of a service is relevant. We expect that the costs associated with this duty for smaller services, or those with lower capacity, will be on the lower end. Where services may be Category 1 and therefore required to comply with this duty, but do not have journalistic content on their service, we expect that ongoing compliance costs will be minimal. Ofcom will produce a code of practice on these duties.
41. For duties related to news publisher content, we recognise that there may be instances where a service is designated as Category 1 but does not have any, or has a minimal amount of, news publisher content. In such instances, we expect that the ongoing compliance costs to services will be minimal. Ofcom will produce guidance on the duties to protect news publisher content.
42. In combining these familiarisation and compliance costs, we are left with the final cost estimates **Table 8** in Table 8 below:

Table 8 – Headline estimates of aggregated costs to business, by category

	Low cost	Central cost	High cost
Category 1	£47.6m	£112.0m	£196.0m
Category 2A	£6.2m	£14.0m	£21.3m
Category 2B	£0.7m	£5.5m	£9.8m
Total	£55.2m	£133.0m	£229.0m

Benefits

43. There are no direct monetisable benefits to business resulting from regulation enabled by this secondary legislation. We do anticipate a decrease in overall online harms in the UK which may create an indirect benefit for providers of having to spend less to counteract potential online harms on their providers because harmful content is removed early, before it has been shared throughout the service, as well as preserving the mental and physical health of their users.

Social Benefits

44. The benefit flowing from regulation enabled by this piece of secondary legislation is the increased safety for users provided by the duties set out in this legislation that relevant providers must abide by. Though we do not have an estimate for the effect of the policy on the rate of online harms, we can estimate the magnitude of social benefits/avoided harms required for the policy to “break even” with the costs to providers of complying with regulations enabled by this legislation. Our estimated cost of compliance, over the ten-year period, is £55.2m-£229.0m, therefore an estimated monetised benefit of £55.2m-£229.0m in avoided online harms would be required to offset the cost. This is equivalent to a 0.02%-0.09% decrease in the estimated £254bn of detriment caused by online harms in the UK, according to the OSA Enactment IA.

Risks and assumptions

45. Due to very limited data and evidence available relating to protections for news publisher and journalistic content, and content of democratic importance duty on Category 1 providers, this duty has not been quantified.

46. Providing user empowerment tools was also not costed, due to lack of evidence.

47. The OSA Enactment IA cost figures were mainly built on aggregate costs, and limited data, and so this approach assumes that all providers in scope face the same compliance costs, and that there is no systematic effect from changing the make-up of expected firms in scope. In practice, compliance costs will vary across businesses in scope.

Impact on small and micro businesses

48. In setting the thresholds for categorised services, HMG have taken a tiered approach which ensures the user-to-user services in scope of the regulation with the greatest reach, that have the relevant characteristics/functionalities, are subject to the strongest duties under Category 1.

49. There is no basis in the primary legislation to exempt SMEs from categorisation, so it must also apply to them should they reach the relevant user number thresholds and have the relevant functionalities or factors/characteristics as specified in the regulations. This is important in ensuring online users in the UK are given adequate protection from harm.

50. However, we assume that no business with fewer than 50 employees will fall into Category 1 or 2A. For modelling purposes, we assume that currently just one business with fewer than 50 employees could fall into Category 2B, but we do not expect any microbusinesses (fewer than 10 employees) to fall into this category, however, there is potential for this to occur within the regulation, even if such a scenario is extremely unlikely. Please note that the final list of providers who will be categorised will

not be known until Ofcom utilises its information gathering powers to confirm intelligence gathered from other sources and creates the register of categorised services.

51. Exempting services that reach the relevant threshold, but which are considered to have the relevant user numbers and functionalities to be categorised as Category 2B, would undermine the regulations. It would also undermine Ofcom's research about the functionalities and user numbers which has an impact on the risk of illegal content and content that is harmful to children. However, the duties on Category 2B services are significantly less than those incumbent on Categories 1 and 2A.
52. More broadly, Ofcom will have a legal duty to assess the impact of its codes of practice, related to the additional duties on categorised services, and other significant proposals, on businesses. This will include a specific requirement to assess the impact of regulatory proposals on small and micro businesses.
53. The regulator will take a proportionate and targeted approach to monitoring and enforcement, focusing on the services where the risk of harm is highest.

Impact on medium businesses

54. The justification for not exempting small and micro businesses applies to medium businesses. Any regulatory costs falling on medium-sized businesses are designed to be proportionate. However, we assume that there are no businesses with a UK presence and fewer than 500 employees which may fall into Category 1. For modelling purposes, we estimate that around three medium-sized businesses could fall into Category 2B. However, as explained, the duties on Category 2B services are significantly less than those incumbent on Categories 1 and 2A. As above, the final list of providers who will be categorised will not be known until Ofcom creates the register of categorised services.

Wider impacts

55. The increased transparency and user safety measures could lead to a safer and more trustworthy online environment for individual users. However, duties like user identity verification could raise concerns about privacy and data security. To mitigate such concerns, Ofcom is required to consult the Information Commissioner when producing guidance for providers on user identity verification.
56. Smaller providers and tech startups might face challenges in complying with these duties due to resource constraints, which could potentially stifle innovation and competition in the tech industry. However, the categorisation thresholds take a tiered approach, so that categorised services with a smaller reach (of at least 5% reach, i.e. Category 2B) will only have to comply with the additional duties related to transparency reporting and disclosure of information about use of the service by a deceased child user.
57. The protection of content of democratic importance could contribute to a healthier public discourse and democratic process. However, it could also lead to debates about the role of tech providers in moderating content and the potential for censorship and bias. There could also be the possibility that different providers have unique definitions of what content is classed as democratically important, or journalistic which risks an imbalance across providers. The OSA mitigates this by providing a definition of "content of democratic importance" under section 17, as well as embedding the importance of principles such as freedom of expression and diversity of political opinion into these duties. This means that providers must account for these when putting in place systems and processes to comply.
58. Wider impacts of the OSA in general can be found in the OSB Impact Assessment⁷.

A summary of the potential trade implications of measure

59. The categorisation of online providers and the imposition of specific duties could have several trade implications. If other countries have different regulations or categorisations for online providers, this

⁷ https://assets.publishing.service.gov.uk/media/6231dc9be90e070ed8233a60/Online_Safety_Bill_impact_assessment.pdf

could lead to regulatory divergence. This could create challenges for providers operating in multiple jurisdictions.

60. Please refer to the OSB IA to see wider trade implications.

Monitoring and Evaluation

61. A wholesale review of the legislation is included within the OSA. As per section 178, the Secretary of State must review the operation of the regulatory framework provided by the Act. This must be carried out after two-to-five years after the last of the provisions of Part 3 of the OSA comes into force. The review must consider the framework as a whole but must specifically look at how the OSA ensures that regulation of services is proportionate, having regard to the level of risk of harm presented by services of different kinds and to the size and capacity of providers.
62. With specific regard to Schedule 11 of the OSA and the thresholds for Category 1, 2A and 2B services, the legislation is clear that these thresholds are not permanently fixed. There are provisions for amending or replacing the regulations, following further research carried out by Ofcom. This research may be initiated by Ofcom or carried out in response to a request from the Secretary of State. Where such research is carried out, Ofcom must provide the Secretary of State with advice as to whether it is appropriate to make changes to the regulations in question or not.

Annex A: Additional duties for Categorised services

	Category 1	Category 2A	Category 2B
Additional duties for Categorised services:			
Transparency reporting	✓	✓	✓
Enhanced requirements on risk assessments and record keeping	✓	✓	
Additional terms of service duties	✓		
Protections for news publisher and journalistic content, and content of democratic importance	✓		
Providing user empowerment tools	✓		
Providing user identity verification options	✓		
Prevention of fraudulent advertising	✓	✓	
Disclosure of information about use of the service by a deceased child user	✓	✓	✓
Duty to conduct an impact assessment on freedom of expression and privacy	✓		

Online Safety Act duties on Categorised services in more detail:

1. Sections 10, 12, 27 and 29 duties for Category 1 and 2A services, on **enhanced risk assessments for child safety and illegal content**, build on existing risk assessment duties that all user-to-user and search services must comply with. The duty is to summarise in the terms of service the findings of the most recent illegal content or children's risk assessment of a service.
2. Section 22 duty for Category 1 services to do an **impact assessment on the impact of measures on the freedom of expression and privacy** and a publicly available statement on positive steps being taken in response to the impact statement. This duty builds on existing duties about having regard to freedom of expression and privacy in relation to measures adopted to comply with the safety duties.
3. Sections 14, 15 and 16 concern the **duty for Category 1 services about adult user empowerment**. There is: (i) a **duty to carry out an assessment** of the service and to summarise the findings and to keep a written record of the assessment; (ii) **where proportionate to do so offer features** which adult users may use or apply if they wish to increase their control over relevant content (relevant content is defined in section 16 and includes content on promoting suicide, self-harm and eating disorders and abuse targeting characteristics such as race and gender); (iii) a duty to operate a service using a system or process to **enable an adult user to indicate if they want to retain a default setting**; (iv) **duty to have terms of service about control features offered** and how users may take advantage of them; and (v) **duty to include features which enable adult users to filter out non-verified users** and content generated by them.

4. Sections 17, 18, and 19 duties placed on Category 1 services **about the protection of content of democratic importance, news publisher content and journalistic content** respectively. The main duties are to have proportionate systems and processes to take into account the importance of freedom of expression, to give notice to recognised news publishers before taking down news publisher content and to effectively give them an opportunity to challenge that decision. There is also a duty to provide an expedited complaints process for action against journalistic content.
5. Sections 23 and 34 set out **additional record-keeping and review duties** for Category 1 and 2A services. For Category 1, this includes keeping a written record of all risk assessments related to user empowerment. For Category 1 and 2A, this includes supplying Ofcom with a record of an illegal content and child safety risk assessment (as per sections 26 and 28).
6. Section 38 and 39 duties on Category 1 and 2A services require them to have in place **proportionate systems and processes in place to prevent fraudulent advertising** being encountered by users and to take down such advertising when alerted, and to have clear and accessible terms of service. Fraudulent advertising is paid-for advertising (which is not user-generated content) and falls within the meaning of an offence as set out in section 40.
6. Section 64 duty on services to provide all adult users of Category 1 services with **the option to verify their identity** and to explain how it works in their terms of service.
7. Section 72 duties build on existing terms of service duties. The additional duty for Category 1 service essentially **requires services to do the things that they say they will do in their terms of service**, to have sufficient detail in the terms so that a user is able to judge if a service is justified in taking content down, and to have a reporting and complaints procedure in place in regard to the additional duties.
8. Section 75 is a duty for all three categories of services to have terms on, and information about, **parent's access to a deceased child's use of a service and a dedicated helpline or similar**. They will also need to have a complaints procedure.
9. Section 77 and Schedule 8 concerns duties on all three categories of services to provide a **transparency report** on notice from Ofcom on specified matters. Ofcom is under a duty to give notice once a year.

Annex B: Ofcom's proposed thresholds for Category 1, 2A and 2B

Category 1:

- a. use a content recommender system **and** have more than 34 million UK users on the user-to-user part of the service, representing c.50% of the UK population **or**
- b. allow users to forward or reshare user-generated content **and** use a content recommender system **and** have more than 7 million UK users on the user-to-user part of the service, representing c.10% of the UK population.

Category 2A:

Ofcom recommend the Category 2A threshold should capture search services or combined services which are:

- a. not vertical search services (search services that are only focused on a specific topic or type of content) **and**
- b. have more than 7 million UK users on the search engine part of the service, representing c.10% of the UK population.

Category 2B:

The advice also recommends the Category 2B threshold should capture services which:

- a. allow users to send direct messages **and**
- b. have more than 3 million UK users on the user-to-user part of the service, representing c.5% of the UK population.