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*Changes to legislation: There are currently no known outstanding effects for the Online Safety Act 2023, Paragraph 5. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 13

#### PENALTIES IMPOSED BY OFCOM UNDER CHAPTER 6 OF PART 7

##### *Maximum amount of penalties: group of entities*

- 5 (1) This paragraph contains modifications of paragraph 4 in a case where, in accordance with Schedule 15, two or more entities are jointly and severally liable for a penalty.
- (2) Sub-paragraphs (3) to (5) of this paragraph apply instead of paragraph 4(1) to (4).
- (3) The maximum amount of the penalty for which the entities are liable is whichever is the greater of—
- (a) £18 million, and
  - (b) 10% of the qualifying worldwide revenue of the group of entities that consists of—
    - (i) the entity that is the provider of the regulated service to which the decision or notice in question relates (“entity E”), and
    - (ii) every other entity which (at the time the decision or notice is given) is a group undertaking in relation to entity E.
- (4) In sub-paragraph (3)(b), the reference to the qualifying worldwide revenue of a group of entities is to—
- (a) the amount of the group’s qualifying worldwide revenue for the most recent complete accounting period of the entities liable for the penalty, or
  - (b) if the first accounting period of the entities liable for the penalty has not yet ended, the amount that OFCOM estimate to be the group’s likely qualifying worldwide revenue for that period.
- (5) In a case where the accounting periods of the entities liable for the penalty are different—
- (a) the reference in sub-paragraph (4)(a) to the accounting period of the entities is to be read as a reference to the accounting period of any of the entities (at OFCOM’s discretion), and
  - (b) sub-paragraph (4)(b) is to apply as if—
    - (i) for “the first accounting period of the entities” there were substituted “the first accounting period of all of the entities”, and
    - (ii) for “that period” there were substituted “the accounting period of any of the entities (at OFCOM’s discretion)”.
- (6) Sub-paragraphs (5), (6) and (7) of paragraph 4 are to be read with the necessary modifications in their application for the purposes of this paragraph.
- (7) In this paragraph—
- “accounting period”, in relation to an entity, means a period in respect of which accounts are prepared in relation to that entity;

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“group undertaking” has the meaning given by section 1161(5) of the Companies Act 2006.

- (8) For the purposes of this paragraph, sections 1161(5) and 1162 of, and Schedule 7 to, the Companies Act 2006—
- (a) are to apply in relation to an entity which is not an undertaking (as defined in section 1161(1) of that Act) as they apply in relation to an undertaking, and
  - (b) are to be read with any necessary modifications if applied to an entity formed under the law of a country outside the United Kingdom.
- (9) OFCOM may by regulations make provision about how the qualifying worldwide revenue of a group of entities is to be determined for the purposes of this paragraph.
- (10) Before making regulations under sub-paragraph (9) OFCOM must consult—
- (a) the Secretary of State,
  - (b) the Treasury, and
  - (c) such other persons as OFCOM consider appropriate.
- (11) Regulations under sub-paragraph (9) may make provision subject to such exemptions and exceptions as OFCOM consider appropriate.

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**Commencement Information**

- I1** Sch. 13 para. 5 not in force at Royal Assent, see [s. 240\(1\)](#)  
**I2** Sch. 13 para. 5 in force at 10.1.2024 by [S.I. 2023/1420](#), [reg. 2\(z17\)\(z36\)](#)

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