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To: All Peers

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*My Lords,*

## **ONLINE SAFETY BILL: FOLLOW-UP TO DEBATE ON DAY 1 OF REPORT**

I am grateful to Noble Lords for their continued engagement with the Online Safety Bill as it continues its Parliamentary passage, and am pleased to provide further information below on issues raised during the first day of report stage.

**Lord Allan of Hallam suggested that it would be helpful for officials to meet people who dedicate their time working on the front lines of self-harm and suicide prevention.**

As I mentioned, officials at the Ministry of Justice, who are leading the development of the new self-harm offence, would be happy to meet people working on the front line. The Government recognises the important work that they carry out and their expertise and understanding of the sensitive issues connected to suicide and self-harm.

I would, however, like to reassure Noble Lords that this engagement has already been taking place. The Government has consulted several such organisations, including working closely with the Department for Health and Social Care and their networks, alongside wider engagement with the Samaritans, the Mental Health Foundation, and NHS England. This has been ongoing throughout the development of both the regulatory framework and the development of the new criminal offence, to ensure that vulnerable people are not captured under the new law.

**Noble Lords sought clarification of the Bill's approach to setting categorisation thresholds for companies, and the power for the Secretary of State to bring further exemptions.**

During the debate on scope, there were calls for clarity about categorisation and exemptions in the Bill.



In relation to categorisation, it is important to note that all in-scope services must take action against illegal content and protect children if they are likely to be accessed by children. Some services will also be assigned a category which brings additional duties. These are set out in **Annex A**. The Secretary of State will set threshold conditions in secondary legislation for each specific category, after receiving advice from Ofcom. Ofcom will then assess services against the threshold conditions and add those services which meet the conditions to a register which it will publish and keep up to date.

The Bill also includes a number of exemptions where there is a low risk of harm or where services are already subject to existing legal and statutory safeguarding duties. These include internal business services (such as intranets), services provided by people providing education or childcare, and services provided by public bodies. Ministers will have the power to amend the initial list of exempt services where there is evidence that other types of user-to-user or search services present a low risk of harm.

Ofcom will also have the power to exempt types of services from some or all of the record-keeping and review duties which will ensure that, where there is a low risk of harm, providers are not subject to unnecessary administrative burdens.

### **Lord Allan asked about expectations for services which already prohibit content set out in Clause 12 in their terms of service.**

Category 1 providers are mandated to offer their adult users 'user empowerment tools' to the extent that it is proportionate to do so, based on the findings of the provider's user empowerment assessment. If a service prohibits all the kinds of relevant content in their terms of service, and its user empowerment assessment finds that it is unlikely that users will encounter this content, then it will not be required to offer the user empowerment content features. The 'terms of service' duties in clauses 64–67 will hold these providers to account for their promises to users, by making sure providers apply their terms of service consistently and transparently.

Where a provider prohibits some but not all of the relevant categories of content to which the clause 12(2) duties apply, it will have to provide the user empowerment content features for the relevant categories of content that it does not prohibit, to the extent that it is proportionate to do so. For the categories of content it does prohibit, the process set out above applies.

### **Lord Clement-Jones asked for more information about the Bill's approach to identity verification.**

During last week's debate, Lord Clement-Jones expressed his support for offering tools to allow users to display their identity verification status. While this may be appropriate in some cases when applied by platforms themselves, government mandating such tools would have serious unintended consequences for a range of users, particularly the vulnerable. Since not everyone will be able to verify their identity, we assess that both regional and socio-economic disparities would be exacerbated, and the 'digital divide' widened. However, the government has designed the user empowerment tools to achieve a more targeted outcome. As currently drafted, these tools achieve their aim to provide adults with greater control over their online experience and to allow them to filter out content from non-verified users, while taking into account the fact that verifying one's identity is not possible for everyone.

With regard to free user empowerment tools – including those which enable users to filter out content from non-verified users and have greater control over content – I can confirm that the Government considers that it is unlikely that providers would be able to put these features behind a paywall and still be compliant. That is because the wording of Clause 12(2) makes it clear that providers have to include user empowerment features as part of their service and

offer this opportunity to all registered users. It may be possible for providers to charge users to verify themselves and still comply, as Clause 57 stipulates only that providers must offer this as an option to users. That being said, it will ultimately be up to Ofcom to decide whether or not verification schemes or user empowerment features offered by a Category 1 provider meet the criteria for these duties set out in the Bill and are therefore compliant.

I hope these responses provide helpful information in relation to the points raised during the debate last week, and I look forward to continuing to listen to Noble Lords' views on the Bill as we continue report stage.

With best wishes,

*Parkinson of Whitley Bay*

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**Minister for Arts & Heritage**

