

Age Verification for pornographic material online Department for Culture, Media and Sport

RPC rating: validated

The IA is now fit for purpose as a result of the Department's response to the RPC's initial review. As first submitted, the IA was not fit for purpose.

Description of proposal

The proposal will establish a new regulatory framework to ensure access from the UK to pornographic material is subject to age verification (AV). Currently, this is required only of UK-based online providers of access to pornography (hereafter, pornography providers), with the result that UK residents can gain access to such material from non-UK providers without AV. The proposals include three provisions: a new requirement that extends the AV requirement to pornography providers regardless of where they are based; a new regulatory framework that charges a new or existing regulatory body with compliance monitoring and enforcement; and arrangements for working with designated third parties (especially advertisers and providers of payment services) to interrupt the business models of non-compliant sites and apps in order to induce pornography providers to implement AV by requiring these third parties to withhold their services and offers from websites and apps through which access to pornography can be obtained without age verification.

Impacts of proposal

Cost to payment service providers

Currently, it is illegal for UK based pornography providers – but not for their non-UK based counterparts - to host sites without age verification barriers. Under the proposal, *all* pornography providers who do not require age verification will be acting illegally. Payment providers and advertisers are already contractually obliged to disengage their services from any company found to be acting illegally. Therefore, once notified of the illegal behaviour, payment service providers and advertisers will be required to disengage from non-compliant pornography sites. The IA explains that, at a minimum, the duties imposed by the proposal will require each of the three largest payment service providers to assign an extra member of staff. The average wage for a suitable employee is around £40,000 a year; therefore, the cost to the large payment service providers is at least £0.1 million. During consultation, the payment service providers estimated that their processing costs would be below £1 million each year, as they have existing processes for withdrawing services in relation to illegal activity. The Department therefore assumes a cost to payment

service providers of £0.5 million each year for the additional labour requirements and any other processing costs. The Department does not assess costs to advertisers and other third parties.

Cost of regulatory body

Pornography providers' use of age verification will be monitored by either a new or an established regulator. The Department bases its estimates of regulator cost on the costs of the Gambling Commission, which also regulates an online industry with a significant amount of businesses based overseas. The IA states that the operation of the Gambling Commission costs around £15.8 million each year. The Department expects the pornography regulator to cost half as much, since the Gambling Commission has additional duties, including issuing licences and conducting on-site inspections. Therefore, costs to government are assumed to be around £7.8 million a year.

Costs to pornography providers

The IA does not assess the costs to pornography providers resulting from the proposal, because it places no new regulatory requirements on UK-based pornography providers.

The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of £0.5 million. This will be a qualifying regulatory provision that will score under the Business Impact Target.

Quality of submission

Following the RPC's initial review, the IA now recognises that payment service providers' processing costs as a result of withdrawing services are a direct cost, because existing regulatory frameworks and business practice already require them to stop processing payments once notified of illegal activity. However, it is unclear why the Department's best estimate of payment service providers' processing costs is £0.5 million. Whilst the cost is likely to lie within reasonably justified lower and upper bounds of £0.1 million and £1 million respectively, the IA would benefit from further explanation as to why £0.5 million was chosen as a best estimate. It is also unclear why the Department did not seek to estimate costs to others (e.g. advertisers) affected by the proposal.

The IA assesses that any loss of payment service providers' profits will be indirect, as it *'relies on porn sites breaking the new law'*. The Better Regulation Framework Manual (paragraph 2.3.47) instructs departments to assume full compliance. However, the proposal affects a large number of non-UK pornography providers

whose compliance cannot be guaranteed, so the IA would have benefitted from providing a sensitivity analysis of the amount of profit that might be lost by payment service providers and advertisers at varying levels of compliance.

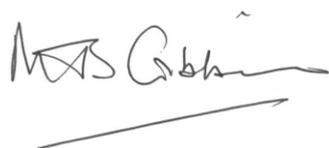
There is no intention at this stage to recover the regulator's costs from industry. If proposals are brought forward to recover costs during this Parliament, this would also qualify for scoring under the Business Impact Target, as those costs would relate to an expanded scope of regulation.

Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net cost to business (EANCB)	£0.0 million (initial estimate) £0.5 million (final estimate)
Business net present value	-£4.3 million
Societal net present value	-£72.3 million

RPC assessment

Classification	Qualifying regulatory provision (IN)
EANCB – RPC validated ¹	£0.5 million
Business Impact Target (BIT) Score ¹	£2.5 million
Small and micro business assessment	Not required (fast track low-cost regulation)
RPC rating (of initial submission)	Not fit for purpose



Michael Gibbons CBE, Chairman

¹ For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.