

Child Safety Online: Age Verification for Pornography – NSPCC Response

Question 1: In your opinion, should age verification controls be placed on all forms of legal pornography ('sex works') online that would receive a British Board of Film Classification rating of 18 or R18?

- a. Yes
- b. No
- c. Don't know

Question 2: Do you think age verification controls should be placed on sites containing still as well as moving images of pornography?

- a. Moving images only
- b. Still and moving images
- c. Neither still nor moving images
- d. Other (please specify)
- e. Don't know

As yet unpublished research, carried out for the NSPCC and the Office for Children's Commissioner, highlights that 48% of young people had viewed online pornography, with the majority first viewing online pornography at home 'accidentally' (i.e. it just popped up). Of those young people who had seen pornography, 90% stated that online pornography was their first exposure to pornography.

The ease with which young people are accidentally stumbling across online pornography, as well as actively searching for it once exposed, is of concern. This is particularly concerning in light of the findings from our research that the act of viewing online pornography appears to have a desensitising impact on young people, as well as increasing feelings of sexual stimulation over time.

Young people themselves want greater protection from accidental exposure to online pornography. In a recent survey conducted by the NSPCC of over 1,600 11-16 year olds, 65% felt that social media sites need to do more to protect young people from adult content.

The consultation document, and expert panel report, highlights the variety of means with which young people are exposed to pornography – including via social media platforms, photo or video-sharing websites, and search engines, as well as pornography websites. NSPCC research and contacts to our Childline services corroborate these findings, as well as the rise of sexual activity on live-streaming sites. As such, we feel that it is vitally important that attention is paid to all mediums with which young people are able to access sexually explicit content and effective safeguards and procedures put in place.

As well as more conventional still and moving images, pornography is viewed and shared through live-streaming, social media, and as our research shows, a small, but

worrying, number of children are sending images and videos of themselves performing sexual acts to another person (25 young people, 2.5% of the sample). While we welcome age verification on pornography sites, we are concerned that this could result in a migration of pornographic content onto other platforms. Only by ensuring that all of these sources of pornography are considered can age verification be as future-proof as possible.

Question 3: To what extent do you agree with the introduction of a new law to require age verification for online pornographic content available in the UK?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

We are interested to hear your thoughts on how age verification controls on pornographic websites should work. For instance, these could include the kinds of Content Access Control (CAC) Systems which Ofcom requires for video on demand sites that provide specially restricted material and are situated in the (a to c below).

The NSPCC strongly agrees with the introduction of a new law to require age verification for online pornography, and wants to ensure that protecting children is the primary concern when deciding how age verification controls should work.

Whichever system is used, it is vital that it is well communicated to the public. We are aware, for example, that technologies such as “digital tokens” are being developed which would allow an individual to prove they are over 18 without the need for them to have to render any other information about themselves to the pornography publishers. This is consistent with the broader principles of data minimization and is very different from the more intrusive requirements imposed on online gambling web sites. We are concerned that this consultation has not sufficiently described the processes by which age verification controls will work in practice, making it difficult for the public to respond, and leading to unnecessary concerns about data sharing and privacy.

Given that so many pornography sites are free to access, the NSPCC believes it is essential that age verification checks should be carried out at the point where a person first seeks to view any content available through the web site rather than at the point of payment. In addition, we believe that all adult entertainment services should be legally required to have a licence, thereby enabling the Government / regulator to have extensive control over the functioning and duties of these operators – requiring regular audits and checks to be effective. In addition, we believe that licensing arrangements should also consider issues such as:

- Ensuring that the publication of sexually explicit content, or other such inappropriate harmful material on social media sites and web operators, is placed behind effective age verification mechanisms for all users under the age of 18.

- Ensuring that website operators and social networking platforms have the processes and procedures in place to effectively take down obscene materials and grossly offensive materials in a timely manner.

As discussed in question 2, only if future migration of online pornography onto social media and other sites is prevented, will age verification effectively prevent children from viewing pornography in the future.

Our own research into the impact of pornography is showing that children and young people are increasingly relying on online pornography as a source of information about sex and relationships. This is not helped by often poor standards of SRE in schools, as demonstrated by a recent study by the Sex Education Forum, which found that nearly one in four young people rated their school's SRE as either 'bad' or 'very bad'.

While age verification will drastically reduce children's accessibility to online pornography, this alone will not resolve the current shortfall in quality, age-appropriate sex and relationship information. We welcome the introduction of this law, and strongly believe that pornography is not an appropriate source of this information for children. However, we also believe that age verification presents an opportunity to fill this information void with alternative, age appropriate material, and that the Government has a responsibility to make sure young people have ready access to this. We are keen to work with the Government and others to address this gap – and hope that our research and engagement with young people can go some way to highlight the multi-dimensional approach that is required to tackle young people's access to, and understanding of, online pornography.

Question 4: If age verification controls are to be required on pornographic websites, how do you think they should work (select all that apply, and please suggest other ideas that you may have)?

- a. Confirmation of credit card ownership or other form of payment where mandatory proof that the holder is 18 or over is required prior to issue.
- b. A reputable personal digital identity management service that uses checks on an independent and reliable database, such as the electoral roll.
- c. Other comparable proof of account ownership that effectively verifies age. For example, possession and ownership of an effectively age-verified mobile phone.
- d. Other (please give details)

We await with anticipation the British Standards Institution Publicly Available Specification (PAS) 1296 Online Age Checking code of practice, and its ensuing public consultation. It is our understanding that age checks will be part of the payment process, whereas we feel that for age-checking to be fully effective, it would need to be at point of registration onto the website, as so many of these sites are free.

We support a multi-layered trust platform, which checks multiple sources to confirm the age of an individual each time they register with a site. In the future the Government should consider how this can apply to social media sites, so that different default settings are applied when someone who has not been verified as 18+ registers as a user.

Question 5: Do you agree that a regulator should have the power to direct payment and other ancillary services to remove their services from noncompliant websites? Please give reasons.

- a. Yes
- b. No
- c. Don't know

We are supportive of this approach as it recognises the need to tackle various sources of income, such as advertising, as well as blocking payment services. Given the number of free sites and 'tube' sites, this is vital for ensuring that children are not only prevented from viewing pornographic material on sites which require a paid subscription.

However, we are concerned that limiting the regulator's powers to preventing non-compliant sites from generating income from their UK audience is not sufficient for ensuring that children are protected from viewing this content (see below).

Question 6: Do you have any suggestions for other actions that could be taken to ensure that commercial providers of online pornography comply with the new law? Please give details.

- a. Yes
- b. No

Blocking at the ISP level

We believe that the regulator should have additional powers to block noncompliant sites at the ISP level, preventing anyone from viewing these sites at all until they comply with the age verification law.

NSPCC research into the impact of pornography on young people, with a sample of over 1,000 11-16 year olds, has found that: around half of the sample had viewed pornography by the age of 16; a third described the content as 'scary'; and perhaps most troublingly, they were as likely to find it accidentally as they were to deliberately search for it. Therefore, while we recognise that blocking sites will be, for many, a controversial step in terms of personal freedom, the freedom of children to not view this content should be paramount.

Licensing

All adult entertainment services should be legally required to have a licence, thereby enabling the Government to have extensive control over the functioning and duties of these operators. This will require regular audits and checks to be effective.

A precedent for this has been set in the regulation of gambling. Revisions to the Gambling Act in November 2014 require all operators that transact with or advertise to British customers to obtain a licence from the Gambling Commission, with one key objective of this being 'protecting children and other vulnerable persons from being harmed or exploited by gambling.'

Amendments to the Criminal Justice Bill calling for the licencing of non-EU providers of pornography were rejected due to concerns that this would create a two-tier system, within which non-EU providers would be more harshly regulated than those based in the UK. To avoid this, licensing should be required of all pornography sites, whether based in the UK or abroad.

Question 7: Do you think that the regulator should have the power to direct parent and umbrella companies of pornographic websites to comply?

- a. Yes
- b. No
- c. Don't know

Question 8: Do you agree with the introduction of a civil regime to regulate pornography websites? Please explain your answer.

- a. Yes
- b. No
- c. Don't know

We are concerned that this consultation does not make explicitly clear what the difference is between a civil and criminal regime, preventing respondents from providing a well-informed answer to this question.

Given the severity of the impact that viewing pornography has on children, as recognised by the Government, it is vital that non-compliance is dealt with as quickly as possible, and that regulators have the necessary powers to punish non-compliance and prevent these sites from continuing to make their content available if the age of viewers is not verified.

There is an assumption that, because a civil regime works for Ofcom, the same will be true with the pornography industry. However, we are concerned that the international nature of the pornography industry means that ensuring compliance will be extremely difficult, and in some cases ISP's ability to block sites will be of greater importance than the type of legal regime that is in place. Without this ability, companies may continue to make their sites available to a UK audience, even if their income streams are cut off. The consultation recognises that *'the internet is constantly evolving and whatever protections put in place by the Government and industry, we should acknowledge that there may be ways around them'*. It is possible that pornography sites will find a way of generating profits to maintain their presence on the UK market, and that without a criminal regime and the power to block ISPs, enforcing compliance to the new law may prove problematic.

In relation to the proposed civil regime, we would like to know:

- How much time are non-compliant sites allowed to resolve their breach in the law?
- Would those that support the business model of pornographic content providers (such as payments, advertisers and other ancillary services) ever be

legally required to withdraw their services from these sites if a breach continues, or will this remain optional?

Question 9: Would the introduction of a new criminal offence be a better form of regulation?

- a. Yes
- b. No
- c. Don't know

The NSPCC believes that civil powers are necessary, and in most cases will be sufficient, but that a regulator should also have criminal powers to institute criminal proceedings should they need it, as is the case with the Gambling Commission. Criminal powers are used for regulating physical pornography, and we see no reason to maintain an inconsistent approach to regulating pornography that's online.

(See answer to question 8).

Question 10: To what extent do you agree with the introduction of a new regulatory framework?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

(See answer to questions 8 and 9)

Question 11: Should a new framework give powers to a regulator/ regulators to (select all that apply):

- a. monitor compliance with the new law by pornographic websites
- b. notify non-compliant sites (and the companies that run them) that they are in breach of the new law
- c. direct non-compliant sites (and the companies that run them) to comply with new law
- d. notify payment providers and ancillary services of non-compliant sites on which their services are available, that the site is in breach of the new law and has not implemented age verification (despite direction from the regulator)
- e. direct payment providers and ancillary services to withdraw services from non-compliant sites
- f. issue fines to non-compliant sites
- g. set standards for age verification controls, and determine content which is in scope
- h. other (please specify)

Enable ISPs to block pornography sites that fail to comply following the steps laid out in the civil regime.

Effectively and quickly remove images that are shared on sites that do not have age verification in place. In the future we would like to see this include social media sites,

where we anticipate many sites will migrate to following the introduction of age verification on pornography websites.

Question 12: Do you think that a co-regulatory approach involving more than one regulator would be appropriate in this context?

- a. If **yes**,
 which regulator(s) should have a role?

Ofcom and BBFC

- which (if any) other stakeholders should have a role (e.g. industry)?
 what should their respective roles be (please refer to the list of potential roles at question 11)?

- b. If no,
 do you think that a single regulator would be more appropriate? If so, please specify which regulator, if you have a view.
c. Don't know

Question 13: Do you agree that the regulator's approach should focus on having the greatest proportional impact, for instance by looking at the most popular sites, or those most visited by children in the UK?

- a. **Yes**
b. No
c. Don't know

To achieve this, consideration will need to be made of how age verification can apply to social media sites in the future. A recent survey carried out by the NSPCC of over 1,000 young people, found that 40% agreed with age verifying social media, and 65% said social media sited need to do more to protect young people from adult content.

Question 14: Wherever new regulation is proposed, the Government must consider impacts on smaller and micro-sized businesses (those with fewer than 50 employees) based in the UK, and whether these impacts are proportionate.

Should smaller and micro-sized businesses (such as some payments and ancillary services) be exempt from the scope of the policy?

- a. Yes
b. **No**
c. Don't know

Question 15: Overall, are you broadly in favour of the proposals set out in the consultation?

- a. **Yes**
b. No
c. Don't know

Question 16: How effective do you think the Government's preferred approach would be in preventing children from accessing online pornography?

- a. Extremely effective
b. **Very effective**
c. Moderately effective

- d. Slightly effective
- e. Not effective at all
- f. Don't know

We welcome the introduction of age verification, and are pleased to see that the proposal goes beyond solely preventing bank / credit-card companies from transferring funds to non-compliant sites.

We are confident that with these measures in place, supported by a regulator with the necessary powers to ensure compliance, the number of children accessing online pornography will decrease. It is vital however, that the new law considers how social media sites will also be required to age verify their members.

With the reduction in children accessing online pornography, the Government must also recognise that an information void will be created; we know that online pornography is increasingly used as a source of information about sex and relationships by young people, albeit an inappropriate and damaging one. Limiting access to online pornography presents an opportunity for the Government to ensure that young people are able to access quality, age-appropriate sex and relationship information in the very spaces that they are currently finding online pornography: tube sites and social media. The NSPCC would welcome the opportunity to work with the Government in developing online resources to ensure that young people are able to access the information they need.