



## Children's Charities' Coalition on Internet Safety

### Age verification and access to commercial pornography web sites

*A briefing note on the Digital Economy Bill, 2016*

Under Part 3 of the Digital Economy Bill commercial publishers of pornography operating on a significant scale on the internet will be required to introduce age verification measures using a method which will be approved by a newly-created regulator. The children's charities applaud this measure.

Most of the larger commercial pornography publishers seemingly have indicated they will willingly comply but it is anticipated some will not and even those who are willing today may change their mind later. The question of enforceability therefore arises.

The regulator will be able to levy a fine on non-compliant commercial pornography publishers but because most of these are overseas it could be trivially easy for them simply to ignore it.

To combat this possibility the regulator is empowered to compile a list of non-compliant sites and circulate it to providers of online payments and other ancillary services including advertising agencies. For these purposes it is assumed that ISPs and other access providers are considered providers of ancillary services but it might be helpful if this was made clear on the face of the Bill.

The Bill only works if these latter businesses threaten to withdraw their services from non-compliant sites, making it impossible or very much more difficult or expensive for them to collect or make any money out of UK residents. They will therefore either cease publishing into the UK or introduce age verification. Mission accomplished.

Either way the policy may have little effect on a publisher who does not depend for a significant part of their income on UK-based payments service providers, UK-based advertising agencies or UK-based providers of ancillary services. Some may even change their business model so as to avoid any such UK-based dependency.

Moreover the advertising agencies, payments service providers and the providers of other ancillary services are not *required* to withdraw their services from non-compliant sites. As the Bill is drafted the regulator can only *inform* them of the identity of the non-compliant sites.

The major UK-based ISPs have already made clear they will NOT restrict access to non-compliant sites unless they are legally compelled. This could completely undo the policy.

Thus an amendment needs to be moved which will **either** give the regulator a reserve power to require ISPs and other access providers to restrict access to non-compliant sites, and require providers of payments or other ancillary services, including advertising agencies, to withdraw them, **or** from the very outset it mandates the regulator to issue notices to that effect. In the latter case such an amendment might be made in the following terms to clause 22.

Insert new sub-clause (2)

"Upon receipt of a notice pursuant to (1) a payment-service provider or a provider of an ancillary service shall be required to withdraw their facilities or services from the contravening entity and to take such steps as are reasonable and practicable to restrict access to any publications offered on the internet by the contravening entity."