

About ISPA

1. The Internet Services Providers' Association is the trade association for the Internet industry in the UK. ISPA has over 200 members from across the sector, including a large number of access provider ISPs from small to large, content platforms, hosting providers, and others. ISPA has been heavily involved in online safety policy for years. For example, we helped set up and still help fund the Internet Watch Foundation and worked with members concerning child internet safety.

Introduction

2. We welcome consultation in this area and support the Government's position on the importance of child internet safety. We also welcome the recognition in the consultation of the successful work of our members in helping create a safer internet, including through education and advice and technical tools.
3. We approach this area by focusing on the most effective way of protecting children online. ISPA believes that policy measures should be targeted at the closest part of the Internet value chain to the area to where most effect will be felt. We therefore welcome that the consultation has decided to target measures at websites that offer pornographic content rather than proposing network level blocking. As we will explain in more detail, network level blocking is a largely ineffective measure and will not necessarily lead to a safer online environment.
4. Whilst we understand the rationale behind the approach proposed in the consultation, our members are concerned that the framework proposed may not yield the success Government hopes. Government should therefore explore further cooperation with the adult industry on internet safety, rather than jumping into a whole new regulatory framework for age verification. If a new regulatory framework is to be created, it will need to be comprehensive, addressing a number of fundamental questions that we reference below.

Current approach

5. The Internet Industry offers customers a variety of technical tools and education and awareness to help parents and carers manage risks online:
 - A number of ISPs offer consumers the choice on whether to install network-level configurable parental controls, with more than 90% of consumers covered by a range of ISPs
 - These tools will offer granular filtering, including the ability to filter pornographic content. As well as this BT, Sky, Virgin Media, and TalkTalk have created, and run, the industry-leading Internet Matters education and awareness resource and campaign

- Others provide advice on tools and education and awareness available in a market that consists of hundreds of ISPs

Great progress has been made by our members in recent years on internet safety in collaboration between industry, government, and stakeholders. The safety of children using the Internet has significantly improved due to our members' efforts. We believe this effective approach should be applied to operators of adult services rather than jumping into a new regulatory framework, without full and thorough consultation and consideration of the issues.

Government's preferred approach

6. Whilst members welcome that Government's approach aims to target websites providing pornography, advertisers, and ancillary services, rather than access providers, we are concerned that this approach is not a holistic solution, and eventually this framework will need to be reconfigured. The model proposed, which aims to disrupt pornography providers' revenues streams by imposing sanctions on advertisers and ancillary services, should these sites not implement age verification controls, is based off the assumption that commercial providers will change their business models and ancillary services and advertisers will work with the UK Government on this issue. We feel that, whilst imposing financial sanctions may eventually force pornography providers to implement age verification controls, this is quite a large leap of faith. In our opinion, it would be better to continue along the successful path that Government has previously been following and explore further ways sites can help protect children and young people, rather than implement this new regulatory framework.
7. We feel that Government needs to be clear about exactly what it wants to achieve with this approach, as the model proposed may disrupt pornography providers' revenue flows and ultimately make them less profitable, but it does not follow that this will stop children from accessing pornography online. If the ultimate goal is to hurt pornography websites financially, this model may work, however, this model will not be successful in stopping children from accessing pornography online.
8. Within the Consultation, Government sets out that it plans to go after mainly the high profile websites that receive the most traffic. Whilst we understand the appeal of this approach, ISPA questions the proportionality of creating a new law, regulator and enforcement regime to underpin this approach. An easier way may be to target a more limited number of websites directly without the need for a new legal framework. The consultation also sets out the framework for a new regulator to ensure that age verification controls are being used and impose sanctions on adult websites that are in breach of the regulation. It is not clear within the consultation, however, who will pay for this regulator and whether a new criminal law is a proportionate step. We would urge Government to work directly with

adult websites to try and look for an alternative solution instead of jumping into a new regulatory regime.

9. Members also questioned how likely a website, ancillary service, or advertiser would be to cooperate with Government if they were based outside the UK or EU. Since Government will have no extraterritorial jurisdiction on this issue, ISPA questions the likelihood that these websites will comply with this new approach or that ancillary services or advertisers based abroad would withhold revenue from the websites. Applying laws across jurisdictions is complex and full of challenges which again reinforces the benefits cooperation with the site owners.

Network level blocking

10. We strongly welcome the fact that the consultation does not advocate ISP network-level blocking for non-compliant websites as a regulatory remedy for this problem. However, members are concerned that, should the proposed approach be unsuccessful, there may be a move towards an approach that forces ISPs to block pornographic websites. We believe that this would be an ineffective approach, as it is only effective in reducing inadvertent access. In 2011, Ofcom [reviewed](#) the practice of blocking websites to reduce online copyright infringement as part of work that came out of the Digital Economy Act. It found that blocking websites was an ineffective measure, as it could be easily circumvented, carried adverse risks, and could ultimately have an impact on privacy and freedom of expression.
11. We are aware that some stakeholders may view blocking as an effective means. However, blocking would carry adverse impact on the operation of the open internet which is highly significant given its daily importance for UK businesses and millions of users. The ability to impose technical measures on individual users will vary between ISPs and could have unintended consequences for ISPs' networks. Moreover, there may be significant impact on business to comply with blocking orders. The costs on industry and negative impact on UK ISPs needs to be considered. For example, would a blocking order apply to all ISPs in the UK (literally several hundred companies)? Would there be support for the ISPs that do not have the necessary technology to implement a blocking order? How would compliance by all ISPs be enforced?
12. The nature of the body that takes the judgments on whether a site should be blocked or not would also be hugely significant. At a minimum, the body would have to be competent, independent, accountable, and transparent. Any proposal should also outline the legal threshold/test that might be applied, the approach for hearing evidence and the mechanism to ensure a fair hearing and appeal by site owners.

13. A new mechanism for blocking pornography websites would carry risks for the IWF. We would therefore want to ensure that public confidence in the IWF's work was maintained, and that any scheme did not inadvertently encourage internet users to adopt tools that would circumvent IWF measures. It would be counterproductive if this new framework, which is designed to promote child internet safety, undermined the work of the IWF.

14. As Ofcom attested in their review, network level blocking can be easily circumvented by those who are 'willing to make the additional effort'. Ofcom reviewed the four main types of network level blocking and found that for all blocking methods, circumvention by site operators and internet users is technically possible and would be relatively straight forward for determined users. Given the adverse risks detailed above, ISPA would recommend that Government carefully weigh up the ease with which blocking can be circumvented with the adverse network risks and complications linked to moving forward on a new framework which may force ISPs to block adult websites.

Conclusion

15. Overall, whilst members appreciate that age verification controls were a manifesto commitment and support the Government position on the importance of child internet safety, the current approach set out in the consultation may prove to be ineffective. Members - some of whom have been at the forefront of child online safety - are concerned that this approach may hit adult websites' revenue streams, but it does not necessarily follow that this will lead them to implement age verification controls and prevent access by children and young people, the ultimate objective. If this approach does not prove to be successful, ISPA is concerned that efforts may then move toward a system in which ISPs are forced to block adult websites. We do not think that this would be a viable way forward, as network level blocking can be easily circumvented and carries adverse risks.

16. We recommend that Government to look for an alternative way to deliver on their manifesto commitment by building upon their success in working collaboratively with the Internet industry to promote child internet safety and fully exploring options with the sites that offer online pornography, before jumping into a new regulatory framework.