

Online Harms Team
DCMS
100 Parliament Street
London
SW1A 2BQ



26 June 2019

Dear Mr Javid and Mr Wright,

We write in response to the Online Harms White Paper.

English PEN is the founding centre of PEN International, an organisation with a ninety-eight year history of promoting literature and defending freedom of expression. English PEN is a company limited by guarantee (reg. no. 5747142) and a registered charity (reg. no. 1125610). We are an Arts Council England National Portfolio Organisation, and supported by grant giving trusts, donations from the publishing, media and legal sectors, and general membership subscriptions.

Scottish PEN is the Scottish Centre of PEN International and was formed in 1927, due to the distinct linguistic and literary heritage found in Scotland. It was the first non-unitary state PEN centre recognised by PEN International and continues to protect free expression and defend at-risk writers around the world. Scottish PEN is a Scottish Charitable Incorporated Organisation (reg. no. SC008772).

All supporters of English PEN and Scottish PEN subscribe to the PEN Charter that begins 'literature knows no frontiers,' and which calls for a free, responsible media.

Our response to the consultation questions is attached. Throughout, our responses are informed by our belief that the space for freedom of expression in the United Kingdom should be kept as wide as possible. We acknowledge that 'harm' to individuals, particularly children, can be caused by the misuse of online communications. But we also wish to affirm the importance of the right to freedom of expression, and that curtailment of free speech is itself a 'harm' to which government and parliament must give significant weight during its decision-making process. We are concerned that the White Paper does not pay sufficient regard to the importance of freedom of expression, and other human rights, in its policy approach.

The cultural sector is now worth £101.5 billion to the UK economy.¹ Just as transport links and utilities are crucial to British industry, a wide space for freedom of expression is crucial 'creative infrastructure.' Often, great art and literature comes about through a radical approach: the breaking of taboos, the causing of controversy, and the pushing of boundaries. The creative sector cannot flourish, or benefit our society, by simply serving safe 'mainstream' interests. Diverse voices must be heard, and those working on niche and fringe interests must be supported. This cannot happen as an afterthought. Our creative industries will only succeed when freedom of expression is celebrated and encouraged everywhere. It must be at the heart of any new regulatory framework for online platforms.

Yours sincerely,

Maureen Freely, Chair, English PEN

Carl MacDougall, President, Scottish PEN

¹ Britain's creative industries break the £100 billion barrier DCMS Press release, 28 November 2018
<https://www.gov.uk/government/news/britains-creative-industries-break-the-100-billion-barrier>

ONLINE HARMS WHITE PAPER

CONSULTATION RESPONSE FROM ENGLISH PEN AND SCOTTISH PEN

Question 1: This government has committed to annual transparency reporting. Beyond the measures set out in this White Paper, should the government do more to build a culture of transparency, trust and accountability across industry and, if so, what?

Annual transparency reports are crucial to ensuring trust and accountability, but are a necessary first step to meaningful transparency, rather than an end goal.

A truly transparent industry would facilitate regulatory access to operational-level decision-making, especially with regard to content removal; how complaints and 'flagging' of inappropriate content are handled; and how the people making moderation decisions are trained. As a corollary to this, transparency requires that the *regulator* has the resources and technical expertise available to make full use of any access granted, and to properly analyse any information provided. This is a consideration for the regulator's funding model, and whether the best approach is state regulation, co-regulation, or self-regulation.

Online platforms can also build trust in their services by providing clear and concise information about the rules of content moderation; applying those rules in a consistent manner; and by offering an effective, accessible and transparent appeal process for moderation decisions. A regulator can hold industry to account on these matters in a way which campaigners and individual users are unable to do.

The scope and scale of the responsibilities for any regulator that emerges from this process should not be discounted. In a number of key ways, the reach and powers afforded this regulator dwarf existing regulators such as Ofcom and as such it should be afforded the expertise, resources and powers needed to ensure the regulator can operate fairly and effectively. It has been suggested in the White Paper to expand the terms of reference of Ofcom to incorporate the powers outlined in the paper. We are sceptical that this would ensure the effective regulation of online spaces. The regulator requires clearly defined terms of reference that adequately reflect the complexities and unique nature of online spaces, which at time significantly diverge from all existing regulatory models.

Further to this, as responsibilities around content published online bridge a number of bodies including states (both the UK and other international governments), the communication platforms themselves, moderators, existing regulators and users. This array of actors represents a unique set of stakeholders that need to be represented in any regulatory framework established following the publication of the White Paper.

Trust in the system can also grow if laws are applied consistently. There should be no double standards and the laws that apply to offline content should apply to online content. Crucially, creation of a regulator should not come to be seen as a substitute for police action on criminal activity.

Question 2: Should designated bodies be able to bring 'super complaints' to the regulator in specific and clearly evidenced circumstances?

Question 2a: If your answer to question 2 is 'yes', in what circumstances should this happen?

In principle, we do not object to the idea that certain bodies bring 'super complaints.' Indeed, this may actually protect freedom of expression and other rights for people who may not be able to bring complaints in their own name (for example, those who rely on anonymity/pseudonymity to exchange information).

However, we are concerned about the prospect of groups being able to make complaints to a platform or to a regulator that results in large quantities of content being taken down. This is a process that could be abused, and so part of the regulator's job should be to review whether complaints are properly handled or whether complaints are 'waved through' without proper scrutiny of the content. There should be penalties for unjustified threats.

Further to this, is the question as to the range of responses the regulator can be empowered to make when receiving super complaints. Take downs should not be the only accepted and standard response to complaint made against platforms, with a number of alternative approaches possible to ensure free expression can be protected, while also representing the issues of the claimant.

Content removal without a clear route of appeal presents a significant threat to freedom of expression. If 'super complaints' are to be allowed then there should be an associated 'super respondent' (perhaps appointed by the regulator, or the regulator itself) that can effectively scrutinise any decision, and act on behalf of individuals whose freedom of expression is affected by such a complaint.

Question 3: What, if any, other measures should the government consider for users who wish to raise concerns about specific pieces of harmful content or activity, and/or breaches of the duty of care?

As we outline below (question 8) we have serious concerns about the 'duty of care' approach to regulation, and instead prefer a framework built around protection of fundamental rights, and how they manifest in the digital space. Not only should users be equipped with tools to raise concerns about harmful content, but they should also have access to tools that enable them to protect their privacy and data, and to report breaches of their right to freedom of expression.

The White Paper focuses mainly on how a piece of content can cause a noticeable harm to an individual. Table 1 outlines the 'online harms in scope' of the White Paper and this represents a vague but problematic basis for the White Paper's overall approach. While it is stated that existing responses to harmful content will be omitted from the White Paper, this list raises a number of complex issues. Each has a very different definition of harm and potential remedy, often without the requirement of legislation or regulation. For this approach to protect internet users and not undermine existing human rights protections, a clearly defined concept of 'harm,' that is adequate for online spaces should be identified. This is not currently present in the approach outlined in the White Paper.

The White Paper acknowledges that in some cases the 'harm' happens at a societal level. Box 12 highlights 'disinformation' and box 13 highlights 'manipulation' and propaganda. In such situations, the content may not be immediately recognisable as harmful; or it may *not* be harmful in itself, but be a legitimate news stories with a particular point of view, or just on a particular subject, that contributes to the manipulation of opinion.

In such cases, the 'harm' is not that a user has been exposed to a particular piece of content, but lies in the way content has been curated for or tailored to the particular user.

In recent years, the major online platforms have made improvements to the way in which users can access their data. In some cases, it is possible to for a user to access information on how they are categorised for the purposes of advertising.

Users should be able to access more information of this nature, including details of who has paid to insert particular messages into their social media 'stream' or timeline, and perhaps also information as to what *algorithmic* decisions have been made to promote or suppress content in a user's feed. As we note below (question 4) a regulator would require advanced *technical* capacity to ensure that users' rights in this area were being respected by the online platforms.

Question 4: What role should Parliament play in scrutinising the work of the regulator, including the development of codes of practice?

The proposed regulatory framework set out in the White Paper has significant implications for fundamental rights, in particular the freedom of expression and privacy rights. Regulatory decisions could prompt behaviour by the online platforms that negatively impacts on freedom of expression – in particular, incentivising the removal of legal but controversial content, or content that discusses (but does not promote) harmful activities.

As we explain below (see Question 8), we believe that a *rights-based* approach to regulation is preferable to one centred around ‘duty of care.’ If the government is minded to pursue a state regulation approach, then parliament should play a central role in scrutinising the regulator’s work, and in setting and reviewing the regulator’s terms of reference, to ensure that fundamental rights are protected.

However, we are not yet persuaded that state regulation is preferable to self-regulation or co-regulation. If the end goal is a high degree of transparency and accountability, and the protection of fundamental rights, then a self-regulatory approach may well be more efficient at delivering this. In the absence of state-enforced sanctions, platforms may strike a better balance between harm prevention and freedom of expression, while ensuring that standards are consistent across platforms. And for an industry so heavily reliant on technical innovation, where scrutiny of code and algorithms is required, then self-regulation may prove to be far more adaptive and effective.

Were a self-regulatory model be adopted, then the role of parliament would necessarily be reduced, or non-existent.

Question 5: Are proposals for the online platforms and services in scope of the regulatory framework a suitable basis for an effective and proportionate approach?

We agree with the Government’s approach in the White Paper, that private communications should be beyond the scope of the regulation.

We are concerned that the proposed regulation is intended to cover all online platforms, regardless of size and structure. This seems far too wide and could place an undue regulatory burden on small organisations, notwithstanding the commitment to help SMEs and pay due regard to ‘innovation.’ We believe that the regulatory focus should be on those platforms that handle the publication of very large volumes of user-generated material. To ensure complete certainty, the precise (large) social media companies in scope should be named. Any company not listed would fall outside of the regulator’s purview.²

In its section on ‘disinformation’ the White Paper acknowledges the existence of ‘authoritative news sources’ and envisages that the regulator would encourage platforms to promote links to such sources (section 7.28, p71). However, the White Paper does not take into account the fact that many of the most prominent users of social media platforms are news outlets themselves.

In recent years, the profound impact that the Internet technologies have had on news production has become clear: Advertising revenue has migrated; news has been ‘unbundled’ from other kinds of content; the shape of the ‘news cycle’ has mutated; and the format and length of news stories themselves have changed in response to the social media platforms design and algorithms. Government and parliament must recognise that any change of behaviour that a regulator

² When determining which companies should be regulated, the government should be mindful of the confusion caused when complex criteria are introduced, and companies are unsure as to whether they fall within scope. We think particularly of the complex definition of ‘relevant publisher’ set out at s.41 of the Crime and Courts Act 2013. This section introduces an unwelcome ambiguity as to which publishers would be subjected to the exemplary damages and costs provisions set out elsewhere in the Act. See *Who Joins The Regulator? An English PEN report into the impact of the Crime and Courts Act on publishers*, Helen Anthony, November 2014 <https://www.englishpen.org/campaigns/who-joins-the-regulator/>

recommends to, or forces upon, an online platform, will have profound implications for traditional news producers.

The British newspaper industry does not currently have a state regulator, and the largest independent regulator IPSO, operates outside the framework of the Royal Charter on the Self-Regulation of the Press that was approved in 2013. However, a regulatory regime for online platforms that is built around 'duty of care' concerns could have profound practical implications for what media outlets can publish, and could even introduce a form of press regulation 'by the back door.'

Question 6: In developing a definition for private communications, what criteria should be considered?

We agree with the Government's approach in the White Paper, that private communications should be beyond the scope of the regulation.

While instant messaging features are found within many social media platforms, they are conceptually no different from email. The existing criminal law provides sufficient protections against the sending of abusive or threatening messages, and against harassment, via these messaging tools.

Question 7: Which channels or forums that can be considered private should be in scope of the regulatory framework?

We believe that all private communications, as defined by a mode of communication where recipients are selected and the content shared is only accessible by those individuals alone, without any audience or sector of the wider userbase being able to access that content, should be beyond the scope of the regulation.

Question 7a: What specific requirements might be appropriate to apply to private channels and forums in order to tackle online harms?

We believe that private communications should be beyond the scope of the regulation.

Question 8: What further steps could be taken to ensure the regulator will act in a targeted and proportionate manner?

We welcome the Government's commitment, at paragraph 5.2 of the White Paper, to include an obligation on any regulator to protect users' rights online, particularly privacy and freedom of expression. We also welcome the commitment to ensure that any transparency report by an online platform will include accountability over content removal decisions that affects freedom of expression.

However, we have serious concerns with how freedom of expression will in practice be protected, in a framework built around the 'duty of care' model. We perceive three major issues, all of which will contribute to a chill on freedom of expression.

1. Ambiguous definition of what is harmful

The White Paper (table 1, page 31) sets out a list of potential harms to users of online tools, separated into those 'with a clear definition' and those acknowledged to have a 'less clear definition.' We understand that online platforms will have a duty of care towards users' exposure to both categories of harm.

We note that *both* categories contain elements of subjectivity and therefore uncertainty. Even if the *definition of the harm* is clear, that does not always mean that *the definition of harmful content* is equally clear. For example, 'incitement' and 'hate speech' are well-defined terms... but whether a given piece of content can be described as such is not always clear. The Public Order Act 1986 criminalises certain kinds of hate speech (parts 3 and 3A) – prosecutions under that law can be difficult and controversial, raising concerns about infringement of Article 10 rights. Similarly s.127

of the Communications Act 2003 criminalises the electronic sharing of 'grossly offensive' content or content 'of an indecent, obscene or menacing character.' This is a sweeping power, based on a lower threshold to that of incitement or hate speech, and its impact of free expression is widely documented.

While these laws can be ill-defined and open to abuse, they at least establish a visible threshold of legally permissible speech that can be challenged in court. The harms outlined in the White Paper will not necessarily meet these established thresholds. They will continue to be defined outside of existing case law and common understanding, further entrenching uncertainty.

Since there are already known pitfalls with regards to harms 'with a clear definition,' it is certain that similar problems will occur with regards to harms with a 'less clear definition' such as trolling and extremism. The difficulty the Home Office experienced in providing a clear definition of 'extremism' during the development of its counter-extremism policies from 2015, is a salutary tale in this regard.³

A new regulatory body cannot be expected to maintain effective oversight of online platforms unless it has a clear definition of the harms it seeks to prevent. Regulation cannot be 'targeted and effective' when the purported harms are hazily defined. A culture of 'transparency and accountability' cannot be promoted among the online platforms when there are no clear rules on what content is and is not acceptable.

As the government continues its project to tackle Online Harms, we believe that now is the time to re-evaluate the suite of existing laws aimed at speech offences. This would aid public awareness and understanding, entrench consistency and ensure new technology has been adequately incorporated. The work of the Commission on Counter Extremism naturally entails a review of current framework, and the Independent Review of Hate Crime Law in Scotland led by Lord Bracadale broached a number of these issues.⁴ The government should take account of this work when devising a framework for reducing 'harm' online.

How does this chill free speech?

Clarity of definition is essential to the protection of freedom of expression. Where there is ambiguity over rules governing speech, there is a strong likelihood of a 'chill' on free speech. Authoritarian regimes deliberately cultivate such ambiguity as a way of keeping control over the population, and terms such as 'hate speech' or 'national security' (as defined in the summary of chapter 2 of part 1 of the White Paper) are regularly redefined or abused to suit the needs of whoever is in power.

However, even liberal democracies can experience a 'chill' when the law is uncertain. Individuals and groups begin to self-censor; and political activists use criminal complaints to delay and censor their ideological opponents.

The police regularly investigate reports of incitement and hate crime related to online content. When they do, they operate to a criminal standard of proof. With the establishment of a new regulator, it is likely that such messages will become subject to parallel investigations: either by the regulator, or the platform itself. When this happens, the messages in question will be subjected to lower standard of proof, and will less (or perhaps zero) opportunity for the author/publisher to make their case. **Platforms will 'err on the side of caution' in order to avoid censure by the regulator.**

³ *Counter-extremism policy: an overview*, House of Commons briefing paper 7238, 23 June 2017
<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7238>

⁴ Scottish PEN's response to Lord Bracadale's review may be read online: https://consult.gov.scot/hate-crime/independent-review-of-hate-crime-legislation/consultation/download_public_attachment?sqld=pasted-question-1467894590.05-55511-1467894590.71-30316&uuld=810367683

This will invite and exacerbate the 'chill' on freedom of expression described above. Not only will individuals self-censor, and not only will activists seek to censor others, but the platforms will be incentivised to take-down legal content.

2. The threat to free speech posed by automation

Given the current volume of content posted daily to social media channels, a significant level of automation is required for them to maintain their current standards and terms of service. This will certainly continue as they fulfil their obligations to the new regulator. Unfortunately, the use of algorithms and Artificial Intelligence presents a challenge to freedom of expression that social media companies currently find very difficult to meet. There have been many cases where images posted by artists and galleries have been incorrectly flagged as pornography, and censored.⁵ In other cases, academic or journalistic discussion of a harmful activity (for example, terrorism or extremism) has been mistaken for content *promoting* that activity.⁶ And the content filters that British ISPs use to block 'objectionable content' have been found to block access to important services such as Childline.⁷

How does this chill free speech?

Algorithms designed and optimised to prioritise a 'duty of care' approach will increase the number of 'false positives' when scanning content. We believe this will be highly detrimental to free speech, and entirely against the public interest. This approach would necessitate a large and potentially untenable set of responsibilities placed on the party deploying the algorithms to check and monitor the outcomes of the automated process. **As past experience has shown, the content that is unintentionally censored is likely to be that which discusses or addresses the very online harms that the regulator seeks to minimise.**

3. 'Duty of care' is a concept ill-suited to the digital space

Graham Smith, a leading legal expert on IT, Intellectual Property and cyber law issues, outlines the problematic nature of the 'duty of care' concept as set out in the White Paper, noting how different it is from duty of care in the offline context.

He writes:

"The proposed duty would not provide users with a basis on which to make a damages claim against the companies for breach, as is the case with a common law duty of care or a statutory duty of care under, say, the Occupiers' Liability Act 1957.

⁵ See, for example: 'Facebook Restores Iconic Vietnam War Photo It Censored for Nudity' *New York Times*, 9 September 2016 <https://www.nytimes.com/2016/09/10/technology/facebook-vietnam-war-photo-nudity.html>; 'Facebook bans Flemish paintings because of nudity' *BBC News*, 23 July 2018 <https://www.bbc.co.uk/news/blogs-news-from-elsewhere-44925656>; 'Facebook took down a post by the Anne Frank Center for showing nude Holocaust victims' *The Verge*, 29 August 2018; <https://www.theverge.com/2018/8/29/17797628/facebook-anne-frank-center-nude-holocaust-victims-censorship-moderation>; 'Facebook reverses ban on Led Zeppelin album cover featuring naked children' *The Guardian*, 21 June 2019 <https://www.theguardian.com/music/2019/jun/21/facebook-reverses-ban-on-led-zeppelin-album-cover-featuring-naked-children>

⁶ See, for example: 'Journalist Nearly Banned from YouTube and Gmail For Posting Al-Qaeda Videos From Chelsea Manning Trial' *Gizmodo*, 15 September 2017 <https://gizmodo.com/journalist-nearly-banned-from-youtube-and-gmail-for-pos-1815314182>; 'Now Academics Studying ISIS Are Feeling The Heat Of An Internet Crackdown' *Buzzfeed News*, 8 December 2018 <https://www.buzzfeednews.com/article/mitchprothero/isis-researchers-have-become-the-collateral-damage-of-the>; 'YouTube's anti-extremism crackdown targets journalist who documents extremism' *Ars Technica*, 6 June 2019 <https://arstechnica.com/information-technology/2019/06/youtubes-anti-extremism-crackdown-targets-journalist-who-documents-extremism/>

⁷ 'Cameron's internet filter goes far beyond porn - and that was always the plan' *New Statesman*, 23 December 2013 <https://www.newstatesman.com/politics/2013/12/camersons-internet-filter-goes-far-beyond-porn-and-was-always-plan>

Nor, sensibly, could the proposed duty do so since its conception of harm strays beyond established duty of care territory of risk of physical injury to individuals, into the highly contestable region of speech harms and then on into the unmappable wilderness of harm to society.”⁸

This criticism should not be discounted. It represents a key issue at the heart of the Government’s approach, and further reinforces the inadequacy of the ‘duty of care’ approach when compared with a system built around protection of fundamental rights.

An alternative regulatory approach?

With these issues in mind, **we believe regulatory framework as proposed is inappropriate.** It will result in a situation where many content creators will find it difficult or even impossible to post something online that is entirely legal offline, and often in the public interest.

When setting the proposed regulatory standards, government and parliament should be mindful of this possibility, and actively work to ensure it does not come about. **To do this, we believe the government must adopt a *rights-based* approach to regulation, placing the preservation of freedom of expression and privacy rights alongside harm prevention.**

A virtue of such an approach is its internationalism. The global human rights framework provides an established standard that can be applied to states as well as multinational companies such as the social media platforms. It provides a standard that could be implemented across jurisdictions, and would also set an excellent example to other countries considering their own regulatory interventions.

Question 9: What, if any, advice or support could the regulator provide to businesses, particularly start-ups and SMEs, comply with the regulatory framework?

We believe it is inadvisable to bring SMEs and start-ups into the scope of the regulation. We believe that the regulatory burden will stifle innovation (regardless of any commitment in the White Paper that a regulator would have ‘due regard’ to innovation) and provide a distraction. The focus should be on the bigger platforms that host large amounts of user-generated content.

Question 10: Should an online harms regulator be: (i) a new public body, or (ii) an existing public body?

Question 10a: If your answer to question 10 is (ii), which body or bodies should it be?

We note the pertinent points made by the doteveryone Green Paper *Making the case for an Independent Internet Regulator* which notes that existing regulators lack a technical capability that matches the technology sector whose work they oversee.⁹ As we explained above (question 1) we believe the breadth of the regulatory task presented by the White Paper points to a new public body.

Question 11: A new or existing regulator is intended to be cost neutral: on what basis should any funding contributions from industry be determined?

We do not take a view on this question.

⁸‘The Rule of Law and the Online Harms White Paper’, Graham Smith, *Cyberlegal*, 5 May 2019 <https://www.cyberleagle.com/2019/05/the-rule-of-law-and-online-harms-white.html>

⁹ *Making the case for an Independent Internet Regulator*, page 4. Doteveryone, 25 May 2018 <https://doteveryone.org.uk/project/regulating-for-responsible-technology/>

Question 12: Should the regulator be empowered to i) disrupt business activities, or ii) undertake ISP blocking, or iii) implement a regime for senior management liability? What, if any, further powers should be available to the regulator?

In devising any system of sanctions to be made available to the regulator, government and parliament must consider how the proposed sanction system will impact on rights, in particular freedom of expression.

We understand that the sanctions outlined in the White Paper are intended to relate to a platform's failure to discharge its 'duty of care' to users. The proposals do not intend to attach direct liability for third-party content to the platforms. The White Paper emphasises that the actions platforms would be required to take would be what is considered a 'reasonable' and 'proportionate approach' to content removal (5.7, page 55).

As outlined above (question 8) we are concerned that, in practice, the 'duty of care' will incentivise a precautionary approach to content removal (i.e. where there is any doubt or 'grey area' the content would be removed). When backed by the potential of heavy sanctions – in particular, senior management liability – we believe that a precautionary approach is inevitable. As explained above, this will have a severe impact on freedom of expression, one which simply cannot be mitigated under the proposed framework.

Question 13: Should the regulator have the power to require a company based outside the UK and EEA to appoint a nominated representative in the UK or EEA in certain circumstances?

We are concerned by the impact this measure will have on global freedom of expression. If the British government, through its new regulator, demands that online platforms set up UK or EEA office, it is likely that other countries will follow suit, insisting that those platforms set up an office in their country too, and abide by their *own* conception of 'online harms' and 'duty of care.' In many countries these definitions will be deeply illiberal and reactionary.

The global nature of Internet communications, and the perpetual assault to online freedom of expression represented by authoritarian regimes, is another reason why we believe a regulatory approach centred on the protection of internationally recognised rights, rather than addressing locally defined 'harms,' is preferable.

Question 14: In addition to judicial review should there be a statutory mechanism for companies to appeal against a decision of the regulator, as exists in relation to Ofcom under sections 192-196 of the Communications Act 2003? Question 14a: If your answer to question 14 is 'yes', in what circumstances should companies be able to use this statutory mechanism? Question 14b: If your answer to question 14 is 'yes', should the appeal be decided on the basis of the principles that would be applied on an application for judicial review or on the merits of the case?

We do not take a view on this question.

Question 15: What are the greatest opportunities and barriers for (i) innovation and (ii) adoption of safety technologies by UK organisations, and what role should government play in addressing these?

We do not take a view on this question.

Question 16: What, if any, are the most significant areas in which organisations need practical guidance to build products that are safe by design?

We do not take a view on this question.

Question 17: Should the government be doing more to help people manage their own and their children's online safety and, if so, what?

We do not take a view on this question.

Question 18: What, if any, role should the regulator have in relation to education and awareness activity?

Educating the public – parents, children, and citizens in general – as to the risks and benefits of online communications should be a crucial component to the work of the regulator. When there is a greater public awareness of the risks posed by online communications, and the activities of ‘bad actors’ in the system, this should increase the general public’s resilience to those harms. In turn, this will give practical effect to more people’s right to free speech, as they participate in online life with enthusiasm and confidence.

A number of the harms outlined in the White Paper would be significantly addressed by enhanced and improved education – at every age group – on the social impacts of new technologies. The growth of coding clubs or classes in schools, libraries and other community centres demonstrates the ability to mobilise educational support on connected issues, but this approach should not be limited to the physical architecture of the internet or web services. Further to this, expanding education and awareness activity to the social, cultural and political impact of new technology also establishes a framework to explore how human rights manifest online, what that means for the broader population, including young people, while strengthening awareness into the rights-based approach advocated in this submission.

Scottish PEN has delivered a range of workshops in different schools in Edinburgh, Inverclyde, Elgin, Banchory and Portobello on a range of topics including hate speech, data and democracy and surveillance. Through this process we have identified the need to engage with young people on these topics as there is no other area within the curriculum (either in Scotland or the rest of the UK) that enables this sort of education and awareness activity. This important issue is too big to be led by 3rd sector organisations and charities alone, especially due to the complex nature of these issues as highlighted in the White Paper.

Education should not just focus on the *risks* of going online. The Internet and its technologies bring many benefits, in particular offering new spaces for freedom of expression and cultural exchange. The job of a regulator should be to ensure that as many people as possible benefit from these technologies. Minimising online harms is just one aspect to a much wider mission.