

## Investigations, Compliance and Defense

# What the New Amendments to the Draft Online Safety Bill Will Mean for Companies Around the World

By: [Lucy Blake](#) and [Karam Jardaneh](#)

The stated aim of the draft UK Online Safety Bill (the Bill) is to make the UK "*the safest place in the world to go online, and the best place to start and grow a digital business*". It has been described as a landmark piece of legislation in the regulation of the internet and online harms and, once enacted, will apply to social media platforms and search engines, regardless of where in the world the company is based or headquartered, if they are providing services to UK users. In our article on *Law360* (found [here](#)), we provided a high-level practical overview of the Bill and suggested prudent steps that impacted platforms should consider taking in anticipation of it coming into force.

In February 2022, the UK government said it had "*listen[ed] to [Members of Parliament], charities and campaigners*" and [announced](#) various changes "*to strengthen the legislation*". In this Client Alert, we explore the key proposed amendments to the Bill which will impact companies around the world.

### Proposed Amendments to the Bill

As explained in our previous [article](#), the Bill imposes duties on regulated service providers to take certain actions in respect of content that is "illegal" and certain other actions in respect of content that is legal but "harmful" to adults or children. In particular, the Bill requires platforms to remove "illegal" content swiftly once they are alerted to its presence. The Bill includes additional requirements for certain categories of offences, including "priority illegal content" which was to be defined in secondary legislation by the UK Secretary of State at some point in the future. These additional requirements include having proportionate systems and processes which proactively minimize the presence and dissemination of "priority" illegal content on their services.

The discretion left to the UK Secretary of State, including in defining "priority" illegal content has been widely criticized, in particular for placing a disproportionate burden on service providers to fill in the blanks. In response, the UK government has now specified a number of the offences that will amount to "priority" illegal content. These include encouraging or assisting suicide, revenge and extreme pornography, incitement to and threats of violence, fraud and financial crime, hate crime, and various other offences. It is not clear whether the government will reserve the ability to add additional priority offences in the future. **As the UK government [noted in its press release](#), this means that while previously "firms would have been forced to take such content down after it had been reported to them by users...now they must be proactive and prevent people being exposed in the first place."**

In addition, "*to make sure criminal law is fit for the internet age*", the UK government also [proposed](#) three new criminal offences which will apply to individuals. These include: a "genuinely threatening" communications offence (covering online threats to kill, rape, or inflict physical harm); a "harm-based" offence (covering communications which may not seem obviously harmful but, as in the case of violence against women and girls, when looked at in light of a pattern of abuse could cause serious distress); and a false communications offence "*when a person sends a communication they know to be false with the intention to cause non-trivial ... harm*" (covering communications on matters such as hoax bombs).

## How Does this Impact Social Media and Search Engine Companies?

The UK government has [explained](#) that in order to fulfil their duties in relation to “priority” illegal content companies will need to make sure “*the features, functionalities and algorithms of their services are designed to prevent their users encountering [“priority” illegal content] and minimise the length of time this content is available*”. The UK government further suggested that this could be achieved “*by automated or human content moderation, banning illegal search terms, spotting suspicious users and having effective systems in place to prevent banned users opening new accounts*”.

Although it may yet be some time before the legislation comes into force, if the most recent proposed amendments are taken forward, Ofcom (the UK communications regulator) “*can take faster enforcement action against tech firms which fail to remove the named illegal content*” and impose fines of up to 10 percent of a company's global revenue. Social media and search engine companies around the world should continue to conduct risk assessments and design robust systems and controls to prepare for the legislation, which is likely to come into force in the course of this year.

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