



Communications Act 2003

2003 CHAPTER 21

[^{F1}PART 4B

VIDEO-SHARING PLATFORM SERVICES

[^{F1}Duties of service providers

Textual Amendments

- F1** Pt. 4B inserted (1.11.2020 for specified purposes, 6.4.2021 in so far as not already in force) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(3)(b), 47 (with Pt. 7)

368Y Duties of service providers

- (1) The provider of a video-sharing platform service must ensure that the service complies with the requirements of section 368Z.
- (2) The provider of a video-sharing platform service (“P”) must publish the following information on a publicly accessible part of that service’s website—
 - (a) P’s name;
 - (b) P’s address;
 - (c) P’s electronic address;
 - (d) a statement that P is [^{F2}subject to regulation under this Part in respect of the video-sharing platform service that P provides];
 - (e) the name, address and electronic address of any body which is the appropriate regulatory authority for any purpose in relation to P or the video-sharing platform service that P provides.
- (3) The provider of a video-sharing platform service must—
 - (a) pay to the appropriate regulatory authority such fee as that authority may require under section 368Z9;
 - (b) comply with any requirement under section 368Z10;

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- (c) co-operate fully with the appropriate regulatory authority for any purpose mentioned in section 368Z10(3).
- (4) In this section “electronic address” means an electronic address to which electronic communications may be sent, and includes any number or address used for the purposes of receiving such communications.

Textual Amendments

F2 Words in s. 368Y(2)(d) substituted (10.1.2024) by [Online Safety Act 2023 \(c. 50\)](#), s. 240(1), [Sch. 16 para. 4](#); [S.I. 2023/1420](#), reg. 2(z28)

368Z Advertising etc controlled by service providers

- (1) In this section, references to audiovisual commercial communications, in relation to a video-sharing platform service, are to audiovisual commercial communications that are marketed, sold or arranged by the person providing that service.
- (2) Audiovisual commercial communications for the following products are prohibited in a video-sharing platform service—
 - (a) cigarettes or other tobacco products;
 - (b) electronic cigarettes or electronic cigarette refill containers;
 - (c) any prescription-only medicine.
- (3) Audiovisual commercial communications for alcoholic drinks are only permitted in a video-sharing platform service if—
 - (a) they are not aimed specifically at persons under the age of 18, and
 - (b) they do not encourage immoderate consumption of alcohol.
- (4) Audiovisual commercial communications included in a video-sharing platform service—
 - (a) must be readily recognisable as such, and
 - (b) must not use techniques which exploit the possibility of conveying a message subliminally or surreptitiously.
- (5) Audiovisual commercial communications included in a video-sharing platform service must not—
 - (a) prejudice respect for human dignity;
 - (b) include or promote discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
 - (c) encourage behaviour prejudicial to health or safety;
 - (d) encourage behaviour grossly prejudicial to the protection of the environment;
 - (e) cause physical, mental or moral detriment to persons under the age of 18;
 - (f) directly exhort such persons to purchase or rent goods or services in a manner which exploits their inexperience or credulity;
 - (g) directly encourage such persons to persuade their parents or others to purchase or rent goods or services;
 - (h) exploit the trust of such persons in parents, teachers or others; or
 - (i) unreasonably show such persons in dangerous situations.
- (6) In this section—

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“electronic cigarette” means a product that—

- (a) can be used for the consumption of nicotine-containing vapour via a mouth piece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank (regardless of whether the product is disposable or refillable by means of a refill container and a tank, or rechargeable with single use cartridges), and
- (b) is not a medicinal product within the meaning of regulation 2 of the Human Medicines Regulations 2012 (S.I. 2012/1916) or a medical device within the meaning of regulation 2 of the Medical Devices Regulations 2002 (S.I. 2002/618);

“electronic cigarette refill container” means a receptacle that—

- (a) contains a nicotine-containing liquid, which can be used to refill an electronic cigarette, and
- (b) is not a medicinal product within the meaning of regulation 2 of the Human Medicines Regulations 2012 or a medical device within the meaning of regulation 2 of the Medical Devices Regulations 2002;

“prescription-only medicine” means a prescription only medicine within the meaning of regulation 5(3) of the Human Medicines Regulations 2012;

“tobacco product” has the meaning given in section 1 of the Tobacco Advertising and Promotion Act 2002.

368Z1 Duty to take appropriate measures

- (1) A person who provides a video-sharing platform service must, in relation to that service, take such of the measures set out in Schedule 15A as are appropriate for the purposes of—
 - (a) protecting persons under the age of 18 from videos and audiovisual commercial communications containing restricted material;
 - (b) protecting the general public from videos and audiovisual commercial communications containing relevant harmful material; and
 - (c) in relation to audiovisual commercial communications that are not marketed, sold or arranged by the person providing the service, ensuring that—
 - (i) audiovisual commercial communications for a product mentioned in section 368Z(2) are not included in the service,
 - (ii) audiovisual commercial communications for alcoholic drinks are only included in the service if they meet the requirements in section 368Z(3), (4) and (5), and
 - (iii) audiovisual commercial communications for anything else are only included in the service if they meet the requirements in section 368Z(4) and (5).
- (2) Where a provider of a video-sharing platform service takes a measure set out in Schedule 15A, the provider must implement the measure in such a way as to carry out the purpose or purposes mentioned in subsection (1) for which the measure is appropriate.
- (3) The requirement in subsection (2) is not to be regarded as imposing on a provider of a video-sharing platform service a general obligation [^{F3}to monitor the information which they transmit or store, or actively to seek to discover facts or circumstances indicating illegal activity].

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- (4) Whether a measure is appropriate for any of the purposes mentioned in subsection (1) must be determined by whether it is practicable and proportionate for the measure to be taken, taking into account—
- (a) the size and nature of the video-sharing platform service;
 - (b) the nature of the material in question;
 - (c) the harm the material in question may cause;
 - (d) the characteristics of the category of persons to be protected;
 - (e) in relation to audiovisual commercial communications that are not marketed, sold or arranged by a person providing a video-sharing platform service, the fact that the provider exercises limited control over such communications;
 - (f) the rights and legitimate interests at stake, including those of the person providing the video-sharing platform service and the persons having created or uploaded the material, as well as the general public interest;
 - (g) any other measures which have been taken, or are to be taken.
- (5) When determining whether a measure is appropriate for the purpose mentioned in subsection (1)(a), the principle that restricted material that has the most potential to harm the physical, mental or moral development of persons under the age of 18 must be subject to the strictest access control measures must be applied.
- (6) Where a person uploading a video to a video-sharing platform service declares that the video contains an audiovisual commercial communication, or the provider of the service knows that such a video contains an audiovisual commercial communication, the provider must clearly inform viewers that the video contains an audiovisual commercial communication.
- (7) A person who provides a video-sharing platform service must provide for an impartial out-of-court procedure for the resolution of any dispute between a person using the service and the provider relating to—
- (a) the implementation of any measure set out in Schedule 15A, or
 - (b) a decision to take, or not to take, any such measure,
- but the provision of or use of this procedure must not affect the ability of a person using the service to bring a claim in civil proceedings.
- (8) In this section—
- “access control measures” means measures designed to control whether or how individuals are able to access videos or audiovisual commercial communications included in a video-sharing platform service;
- “relevant harmful material” means—
- (a) material referred to in section 368E(1), or
 - (b) material referred to in section 368E(3)(za) (read as if the reference to an on-demand programme service were to a video-sharing platform service);
- “restricted material” means—
- (a) material which is prohibited material within the meaning of section 368E by virtue of falling within paragraph (a) or (b) of subsection (3) of that section, or
 - (b) specially restricted material within the meaning of section 368E (see subsection (5) of that section).]

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Textual Amendments

- F3** Words in s. 368Z1(3) substituted (10.1.2024) by [Online Safety Act 2023 \(c. 50\)](#), s. 240(1), [Sch. 16 para. 5](#); S.I. 2023/1420, reg. 2(z28)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)