

SOCIAL MEDIA HARM REDUCTION PROPOSAL

Professor Lorna Woods and William Perrin set out to describe a regulatory system for reducing harm from and on social media for UK users. Drawing on the well-established concepts and legislation, they propose a statutory duty of care backed by an independent regulator, with measuring, reporting and transparency obligations.



Scope of services

1. The service should: have a strong two-way or multiway communications component; and display user-generated content publicly or to large member group have a significant number of members/audience in the UK (this last requirement was dropped and it was emphasised proportionality much more instead).

Removing the de minimis user/customer threshold for duty of care and safety by design for all service providers irrespective of size.

Proportionality

2. In assessing compliance with the statutory duty of care, a regulator should adopt a proportionate approach which takes into account, inter alia, the severity of the harm and the size of risk as well as the size of, and resources available to, a service operator alongside the perceived ability to reasonably foresee the risk/harm suffered.

3. The regulator should work with industry, civil society, the ICO and the Regulatory Policy Committee to produce a statutory safety by design code and should share best practice. We further suggest that funding should be made available to researchers to understand what sorts of software create which sorts of on-line environments.

4. The regulator should engage with the training and professional development industry to steer them to develop products for SMEs that cover risk management and ethical issues and introduce legal and ethical issues to design considerations.

Expanding the definition of services

5. 'Messaging' services that enable large groups or those that enable public groups are qualifying services and fall under our proposed regime. The regulator should work with industry, users and civil society on a specific harm reduction cycle for such messaging services.

6. The scope of the regime to cover harm occurring to people who are not users should be extended.

The regulator should have the power to draw up codes of practice with industry and civil society or to approve already existing codes.

There should not be an individual right of action under the statutory duty of care though any existing individual rights under other causes of action should not be displaced. Moreover, a super complaint mechanism should be introduced.



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