Response to the Joint Commission on the Online Safety Bill

Submission by the Transparency Task Force, September 16th 2021

About the Transparency Task Force

The Transparency Task Force is a Certified Social Enterprise, meaning that we exist to make an impact, not profit.

The mission of the Transparency Task Force is to promote ongoing reform of the financial sector, so that it serves society better. Our vision is to build a large, influential and highly respected international institution that helps to ensure consumers are treated fairly by the financial sector.

The primary beneficiaries of our work will be consumers; but the sector itself will also benefit through improved market conduct and increased trust in the services it provides.

Our objective is to carry out a broad range of activities that help to drive positive, progressive and purposeful finance reform, such as:

- Building a collaborative, campaigning community; the larger it is the more influence it can have in driving the change that is needed
- Raising awareness of issues; so that society better understands the problems that exist in the financial sector and how they can be dealt with
- Engaging with people who can make change happen; because through such dialogue we can influence thinking, policy making and market conduct

Much of our focus is on rebuilding trustworthiness and confidence in financial services. To make this possible we are busy developing a framework for finance reform which we describe as a "whole system solution for a whole-system problem" as described in our recently published book

Our response to you has been produced by a highly collaborative group of TTF volunteers, our "Response Squad," working together to build consensus, whilst always remaining true to our "North Star" question: "What is best for the consumer?"

For further information about the Transparency Task Force see: http://www.transparencytaskforce.org

1. Background

Our submission on the Draft Online Safety Bill ("the Bill" is restricted to the need to bring paid online advertising within the scope of the Bill. Our response is largely driven by our member Mark Taber, who is an experienced consumer finance expert and campaigner and he has been campaigning for effective legislation to cover online advertising for nearly 2 years. During this time he has:

- engaged and joined up key stakeholders on the issue of lack of effective legislation and regulation of online advertising and its role in driving the current epidemic of fraud and scams in the UK
- analysed, investigated and reported over 1,000 online adverts being used to target victims for savings and investment scams
- engaged, including high level meetings, with the FCA, Google and the FSCS
- provided evidence to the Work & Pensions Committee ("WPC", Treasury Committee, HM Treasury, the FCA and DCMS
- provided extensive information and commentary to national newspapers on the issue and appeared as an expert on BBC television (Rip Off Britain) and Radio (Moneybox)

We are highly respectful of Mark's subject-matter expertise on this matter and appreciate that he would be delighted to provide any further information to the Joint Committee or answer any questions arising from this submission.

2. Basis

The mountain of evidence demonstrates that online advertising is, by far, the biggest tool used by criminals, including serious organised crime, to target victims for savings and investment fraud. This problem has been growing for many years without any action by the Government to address it. For example, the high profile London Capital & Finance savings fraud, which took £240 million from over 11,000 victims between 2016 and 2018, primarily used fake comparison sites advertised in Google to target victims. The FCA has reported that Google was paid over £20 million for these adverts.

The current level of savings and investment fraud being reported to Action Fraud is running at about £750 million a year. This will be the tip if the iceberg because:

- many victims are vulnerable and do not know where to turn
- many victims are too ashamed to seek help, or are in denial
- Many victims try to report to their bank, the FCA or local Police rather than Action Fraud

The harm to victims is not just financial. It destroys lives and has major effects on their mental health. In evidence Action Fraud told the WPC that it receives hundreds of calls from victims about whom they are so concerned that they keep them on the line until the Police are able to reach them. Furthermore once scammers and fraudsters have successfully targeted a victim through online advertising they will repeatedly target them with cruel recovery scams and other scams as well as selling their details to other scammers. On 19 March 2021 Action Fraud reported "First time victims of fraud go on to lose £373 million to repeat frauds – with victims of at least one investment fraud worst affected."

Over the past year there have been repeated evidence based calls for online advertising to be included in the Bill from all key stakeholders including:

- Parliamentary Committees: the WPC and Treasury Committee
- Regulators: including the FCA and Bank of England
- Consumer Organisations: including Which?, Money & Mental Health
- Industry bodies including the FSCS, PIMFA & UK Finance
- Campaigners including Martin Lewis

It remains unclear why, to date, the Government has ignored all this evidence and unanimous calls. However, it has been suggested by several reliable sources that the big online platforms which would be subject to legislation have been privately lobbying the Government to refrain from legislating and proffering voluntary measures as an alternative.

3. Legislation rather than voluntary measures

There are a number of key reasons why voluntary measures are not effective and legislation is needed.

For example:

I. Voluntary measures would not be enforceable against online platforms. There is a long history of platforms such as Google and Facebook bringing in new policies designed to curb consumer harm but then failing to implement or apply them effectively.

II. Voluntary measures would not be permanent because there is no guarantee that platforms would not vary or drop them over time to suit their commercial interests at the detriment of consumers.

iii. Voluntary measures would not be consistent across platforms. This would cause confusion amongst consumers who may wrongly believe they can trust all platforms because one has taken effective action to curb online adverts from scammers and fraudsters. This is happening in practice at present with Google having introduced new policies which are driving scammers to advertise increasingly on other platforms such as Bing and Facebook.

4. Single rather than multiple legislation

Government has suggested that it will consider other legislation rather than include online advertising within the scope of the Bill.

This position is fundamentally flawed on a number of grounds.

For example:

I. It would further delay, for many years, legislation on an issue which has been causing massive harm for years and which is spiralling out of control.

II. Omitting online advertising from the Bill while including scams from user generated content, as currently proposed, would clearly enable scammers to move to targeting victims through online advertising rather than user generated content.

III. Legislation scams from online advertising in separate legislation to scams from super generated content would create dreaded grey areas which would be hard to regulate and be exploited by scammers. For example, there is currently a big issue with online influencers posting videos etc. on savings and investments schemes such as cryptocurrency trading which are likely to cause harm. Under the separate legislation approach it would not be clear where such videos would fall and who would be responsible for enforcement and regulation.

IV. Not all investments are regulated, so online adverts for them could fall out of separate legislation aimed at financial services. This is already being exploited by scammers who are evading new Google policies by advertising unregulated investments such as wine, whisky and art online, to obtain details of potential victims.

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