

What will change for VSPs under the Online Safety Act 2023?

The Online Safety Act 2023 (OSA) received Royal Assent in October 2023. Video sharing platforms (VSPs) have however been subject to a specific [regime](#) which has been in force since November 2020. That regime remains in place for now, but it will be replaced (in due course) by the OSA. What do these regimes require and what will happen to the video sharing regime as the OSA takes effect?

Summary

In summary:

- the existing VSP regime remains in place for now;
- VSPs will be given six months' notice of the repeal of the old regime and the full application of the OSA to them; and
- the OSA has a lot of similarities to the existing regime, but the fines for breaches get bigger, some obligations become more onerous (eg more rigorous obligations to undertake risk assessments) and other obligations, particularly relating to advertising, disappear (at least for now).

The transition

The existing rules governing VSPs are set out in Part 4B of the Communications Act 2003 and Ofcom's related guidance (the "**Pre-existing VSP Rules**"). We've written notes on these rules previously: see [here](#). All VSPs currently subject to the VSP Rules (ie those that meet the scope and jurisdiction criteria under Part 4B of the Communications Act 2003) have now entered into a transition period (which started on 10 January 2024). Schedule 17 of the OSA sets out transitional provisions for VSPs. During this period, the services which fall under the Pre-existing VSP Rules will have to continue to comply with the Pre-existing Rules (and Ofcom will still have regulatory powers for this purpose) but will be exempt from having to comply with most duties under the OSA. However, they will still have some OSA duties (once they come into effect), such as:

- To comply with demands for information issued by Ofcom; and
- To *notify* for fees (albeit most pre-existing VSPs will be exempt from actually paying fees during the transition period).

If a VSP is a dissociable section of a larger service, another part of which qualifies as a regulated service under the OSA, then the exemptions will only apply to the VSP part of the service. During the transition period, the non-VSP part of the service will be treated like any other regulated service in scope of the OSA.

Since the OSA received Royal Assent on 26 October 2023, Ofcom has no longer been accepting new notifications from VSPs. However, if the platform should have notified Ofcom before that date under the Pre-existing VSP Rules, Ofcom retains the power to take enforcement action against any provider for failure to notify. If the platform has been first provided on or after 26 October 2023, it will be regulated under the new OSA regime (albeit much of the new OSA regime has not yet taken effect, and is pending Ofcom guidance before being brought into effect – see our [note](#) on Ofcom's roadmap for implementation of the OSA for further information on this).

There will be secondary legislation made specifying the date for repeal of the VSP Rules and the transition period will end on this date. There is a requirement to give at least six months' notice of the date of repeal. We envisage this happening at a point when the OSA is fully implemented.

Following the transition period, pre-existing, UK-established VSPs will be regulated under the OSA. Duties under the new regime will apply in full. (You can see our summary of the [new regime](#) here). However, Ofcom will still have the power to continue any enforcement cases with VSPs that are ongoing under the VSP Rules at the date of repeal.

Ofcom has [indicated](#) that for the remainder of the VSP regime, it will concentrate on ensuring that:

- there are clear user policies in place that are easy to find and understand;
- terrorist videos or videos that incite hatred and/or violence are taken down quickly;
- child abusers are prevented from sharing and/or watching child sexual abuse videos;
- children are prevented from finding and viewing pornographic videos on adult platforms;
- children are protected from finding and viewing other age-inappropriate videos; and
- all users can access easy-to-use and effective tools to report content or submit complaints.

Looking forward, Ofcom has produced a document detailing its [approach to regulation](#) under the OSA.

It is worth noting that the Pre-existing VSP Rules derive from EU law, and so many VSPs will nevertheless be required to continue complying with similar regimes under equivalent derived laws in EEA member states.

We have produced a table providing a detailed comparison of the requirements under the Pre-existing VSP Rules and the new OSA regime. [If you would like a copy, please contact Alex Kelham:](#)



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