

# **BBFC Assessment of Adult Sites' Functionality: A Research Report Commissioned by DCMS**

## Executive summary

The British Board of Film Classification (BBFC) has produced this research in order to provide the Department for Digital, Culture, Media and Sport (DCMS) with a 'snapshot' of the functionality of the most popular pornography sites accessed from the UK. This will assist DCMS in assessing what proportion of sites are likely to fall within scope of the proposed Online Harms legislation.

In line with the scope of the regime as stated in the initial consultation response published in February 2020, the BBFC has assessed whether sites 'facilitate the sharing of user-generated content or user interactions'. As requested, the assessment has been based on the top 200 pornographic sites ranked according to UK traffic in the month of August 2020.

### Key findings:

- In total, 64% of sites provide a clear mechanism for users to do one or more of the following: share user-generated content, enable live streaming or interact with other users by comments or live chat.
- 36% of sites contain none of the above functionality. These include 'gallery' sites, which generally use automated crawlers to gather content from other platforms, and 'premium' sites that provide a freely accessible 'shop window' for potential customers to sample pornographic videos.
- The research therefore confirms that just under two thirds of the top 200 adult sites will likely fall within scope of the proposed Online Harms legislation as set out in the February 2020 consultation response and that there will remain a significant proportion not covered by the proposed legislation.

Because of the short timeframe and budget, and as agreed with DCMS, the BBFC's research has not been in-depth. There are some ambiguities to our findings which are discussed in the full report. We would recommend that DCMS consider commissioning further research in order to better understand the nature of the online adult industry, the likely effectiveness or otherwise of limiting regulation to sites which offer user-generated content or user interactivity, and the ability of adult sites to reconfigure functionality to avoid regulation.

## Introduction and background

The BBFC has produced this research at the request of DCMS. The purpose of the research is to provide DCMS with a high level 'snapshot' of the functionality of the most popular pornography sites accessed from the UK. This will assist DCMS in assessing what proportion of sites are likely to fall within scope of the Online Harms legislation, which is proposed in the initial consultation response published 12 February 2020 to 'only apply to companies that provide services which facilitate the sharing of user-generated content or user interactions, for example through comments, forums or video sharing'.

The BBFC is recognised as expert in online regulation and the classification of pornography. Currently, the BBFC classifies all pornographic content released in physical formats (DVD and Blu-ray) under the Video Recordings Act 1984 and will refuse to classify or will remove any material from pornographic works which is potentially harmful or otherwise illegal. We also regulate, on a best-practice, non-statutory basis, pornographic content distributed online on a limited number of on-demand services.

In 2015, the Government calculated that 1.4 million children see online pornography every month in the UK. This figure will only have risen in the years since, particularly given the increase in children's unsupervised internet access during the COVID-19 pandemic. There is a growing body of evidence, including research carried out by the BBFC, which shows the devastating impact that this material can have on young people's development, their relationships and their mental health in the long term. Measures to protect children from online pornography will comprise part of the forthcoming Online Harms legislation.

## Methodology

DCMS asked the BBFC to focus on the top 200 pornographic websites accessed from the UK. The BBFC has derived this research from a list of pornographic sites ranked according to UK traffic during the month of August 2020, which was supplied to the BBFC by Comscore.

When considering the sites in scope, the BBFC has excluded sites listed in the top 200 that do not upon reasonable inspection appear to be primarily pornographic. That is not to say that some of these sites will not include some pornographic material, but pornography does not appear to be their core offering. We excluded the following types of site on this basis:

- Nine dating or 'hook-up' sites;
- Two online stores specialising in sex toys or lingerie;
- One 'lifestyle' site – albeit one with business connections to a popular pornographic platform;

- One site offering web hosting services;
- One content aggregator site;
- One site hosting a survey for users of a popular pornographic platform that featured only 'glamour' imagery.

The BBFC has also excluded, by necessity, any site with a name that suggests its core offering is illegal content – for example, extreme pornography. We excluded one site from the top 200 on this basis.

We have also excluded sites that would not load or that appear to have closed down or relocated to a different URL. We excluded eight sites from the top 200 on this basis.

In total, 24 sites were excluded from the top 200.

Where we have excluded sites, we have included an equivalent number of additional sites from the next position on the list (site #201, #202, etc.) to ensure that our assessment is based on a sample of 200 sites that we consider to be primarily pornographic.

Looking at each site in turn, the BBFC has assessed the following:

- Whether each site allows users to share user-generated videos or images. We have made this determination based, in the first instance, on whether or not each site offers a mechanism for users to upload content. We have accepted, for the purposes of this research, a 'content partner program' or similarly termed program to be indicative of a means of upload, though it is arguable that such an arrangement should be considered as distinct from a more 'general' user-generated functionality. Where an upload mechanism or partner program is not apparent, we have reviewed the site's terms of service, which may indicate that a site allows its users to share user-generated content even if the means by which it does so is not obvious. We cannot be confident that these sites do genuinely offer this functionality, however, as in many cases the terms of service appear to be dubiously generic rather than specific to an individual site.
- Whether each site enables live streaming. We have assessed how many sites in scope provide live-streaming functionality, i.e. 'cam' services. Live-streamed content is a form of user-generated content. Sites that link to external live-streaming platforms have not themselves been considered to provide live-streaming functionality.
- Whether each site allows users to interact with one another, e.g. by comments or live chat. We have assessed comment functionality based on whether each site offers users the opportunity to post written remarks below a video clip, image or any other kind of content. We have assessed live chat functionality based on whether each site provides a mechanism by which users may interact with one

another or with performers in real time. The latter is an essential component of 'cam' services. We have not included sites which offer users the chance to 'rate' content – for example, with a 'thumbs up' or 'thumbs down' – as we were concerned that this would be too generous an interpretation of 'user interaction'.

- Whether each site has existing mechanisms in place that may prevent, deter or delay children accessing the site before displaying any pornographic content. While few if any sites were expected to carry the level of robust age-verification that would have been required under the Digital Economy Act, we have assessed where sites require some sort of action before users can gain access to the content – for example, the requirement to register for an account or pay for content using a debit or credit card. It should be noted that such measures will not necessarily be effective in preventing access by children but may deter them in favour of more easily accessible sites.

Determinations made by the BBFC are based on a reasonable sampling of each site and have been made in good faith.

## Assessment of sites

The BBFC's assessment of the top 200 found that:

- 41.5% of sites provide users with a clear mechanism by which to upload user-generated videos or images (not including live streaming). These primarily take the form of so-called 'tube' sites, which are free to access, providing both professional and amateur content, and where the majority of UK users currently tend to view adult content. Four sites were included solely on the basis of offering a 'content partner program' rather than more conventional user-generated functionality. If we were to discount these sites, the figure would drop to 39.5%.
- An additional 9.5% of sites claimed in their terms of services to enable the sharing of user-generated videos or images (not including live streaming). As mentioned above, we are not confident in these cases that the site genuinely does offer this functionality and would recommend further research is carried out into these sites in order to establish how they work and whether they do in fact allow sharing of user-generated content.
- 21% of sites enable live streaming. This is a subset of user-generated content. Though account registration or payment is often required in order to access live 'rooms' and interact with the models, these sites commonly feature 'preview' clips to entice users, which in many cases feature pornographic content. Sites that link to external live-streaming platforms rather than offering this functionality themselves have not been included. If DCMS considered such sites to enable the sharing of user-generated content, this would have a minimal impact on the

findings, bringing only three additional sites into scope of the proposed regime.

- 57% of sites allow users to interact with one another. 42.5% of sites offered users the facility to leave comments beneath content. 23.5% enabled a live chat functionality, primarily live 'cam' services. An additional 2% of sites provide the means for users 'rate' content, e.g. with a 'thumbs up'. As mentioned above, we think this would be a questionable interpretation of 'user interaction' so have not included these within the 57%.
- 4.5% of sites have existing mechanisms in place that may prevent, deter or delay children accessing the site before displaying any pornographic content. These include, for example, the requirement to sign up for an account and register payment details before displaying any pornographic content. While such measures may put a child off a particular site in favour of a more accessible one, they cannot be considered effective means of preventing access as children as young as eleven may have access to their own debit card. The research found no sites within the top 200 that would accept payment via credit card only before displaying any pornographic content.
- 14.5% of sites have a 'pop-up' warning that the content is intended for adults only. Such warnings can invariably be dismissed with a single click and, in many cases, pornographic imagery was visible behind or alongside the pop-up.

In total, 64% of sites provide a clear mechanism for users to do one or more of the following: share user-generated content, enable live streaming or interact with other users by comments or live chat. If we were to include sites that allow users to 'rate' content and sites that claim in their terms of service to enable the sharing of user-generated content despite no obvious mechanism for users to do so, then this figure would rise to 71%. But we would advise that the 64% figure is a more realistic assessment of the definition in the consultation response. If we were to exclude sites that were considered to enable the sharing of user-generated content based solely on the provision of a 'content partner program' or similar, then the figure would decrease to 62% with the relevant functionality.

36% of sites contain none of the above functionality. In approximately 49% of cases (35/72 sites) these take the form of 'gallery' sites which generally use automated crawlers to gather content from other platforms, which is then displayed as thumbnails (often pornographic in and of themselves) with links provided to the external site. These sites do not enable the sharing of user-generated content or user interaction, and therefore would not fall within scope of the regime as set out in the February 2020 consultation response. Other sites that would likely fall out of scope include 'premium' sites that nevertheless provide a freely accessible 'shop window' for potential customers to sample pornographic videos before purchasing a full video or subscribing to the service. There are also a number of sites that supposedly provide access to sexually explicit online games, and which feature realistically rendered pornographic animations

in order to encourage users to sign up. If we were to include sites that allow users to 'rate' content and sites that claim in their terms of service to enable the sharing of user-generated content despite no obvious mechanism for users to do so, then this figure would drop to 29%. But we would advise that the 36% figure is a more realistic assessment of the definition in the consultation response. If we were to exclude sites that were considered to enable the sharing of user-generated content based solely on the provision of a 'content partner program' or similar, then the figure would increase to 38% without any of the relevant functionality.

## Recommendations

While the research confirms that just under two thirds of the top 200 adult sites will likely fall within scope of the proposed Online Harms legislation as set out in the February 2020 consultation response, there is a significant percentage that will not be covered if the regime is limited to sites that 'facilitate the sharing of user-generated content or user interactions'.

Furthermore, though we have for the purposes of this research accepted a 'content partner program' or similar to be indicative of a means to upload user-generated content, we recognise that this is quite a favourable interpretation with which others (site operators in particular) might disagree. They could credibly argue that a 'partner program' is a business-to-business commercial relationship distinct from a more 'general' user-generated functionality. It would be fruitful for further research to be carried out into these sites, as it may be the case that they would be considered not to be in scope under the current Online Harms proposals.

Based on this research, it would be relatively straightforward for many of the top 200 sites to remove the facility to share user-generated content or interact with other users in order to avoid regulation and thereby gain a commercial advantage over competitors. In particular, switching off comment functionality or the facility to 'rate' content will be very straightforward for site owners. After all, the vast majority of users, including children, access pornographic websites to watch content rather than to share their own or to interact with other users.

If, in consequence, only some sites are subject to regulation, there is a risk that the shape of the industry will be rapidly transformed because of a change in consumer behaviour. Consideration would have to be given to the issue of users following the path of least resistance in order to access content, diverting traffic away from sites that must put barriers in place in favour of those that do not face the same regulatory requirements.

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