

Online Advertising Programme Consultation Response, BILETA

Prepared on behalf of the British and Irish Law, Education and Technology Association (BILETA) by Dr Edina Harbinja, Dr Mark Leiser, Mr Gavin Sutter, Dr Zoi Krokida

The British and Irish Law Education Technology Association (BILETA) was formed in April 1986 to promote, develop and communicate high-quality research and knowledge on technology law and policy to organisations, governments, professionals, students and the public. BILETA also promotes the use of and research into technology at all stages of education. The present inquiry raises technological, economic and legal challenges that our membership explores in their research. As such, we believe that our contribution will add to the public discourse and the inquiry on the future of UK human rights law.

Consultation questions

Question 1

Do you agree with the categories of online advertising we have included in scope for the purposes of this consultation?

a) Yes

b) No

c) Don't know

Do you think the scope should be expanded or reduced? Please explain.

We broadly agree with the categorisation, derived from the CMA Online platforms and digital advertising market study from 2019.¹ There could be other ways of categorising online advertising (e.g. video, email, affiliate), but these categories are arguably covered by the proposed list (the last category in particular, i.e. Content marketing, sponsorship and influencer marketing). As noted in our response to the Online Safety Bill consultation, we disagree that fraudulent marketing should be regulated within the OSB and rather consider this a matter of this particular programme.

¹ <https://www.gov.uk/cma-cases/online-platforms-and-digital-advertising-market-study>

Question 2

Do you agree with the market categories of online advertising that we have identified in this consultation?

a) Yes

b) No

c) Don't know

Do you think the scope should be expanded or reduced? Please explain.

As noted above, this is broadly within the accepted standards and categorisations.

Question 3

Do you agree with the range of actors that we have included in the scope of this consultation?

a) Yes

b) No

c) Don't know

Do you think the range should be expanded or reduced? Please explain.

The consultations includes all the significant actors in the digital marketing ecosystem. Once again, we note our objection to including advertising platforms into the scope of the OSB. This is a piecemeal approach and does not help achieve regulatory coherence and certainty. Also, we understand the Government's intention around political advertising ('this has not been subject to advertising Codes since 1999. The government believes that having political advertising vetted or censored would have a chilling effect on free speech. '), however we warn of harms to democratic processes, debates and individuals created through the partnership between online advertising actors and political actors and parties, as evidenced in the Cambridge Analytica scandal and elsewhere in the past decade.

Question 4

Do you agree that we have captured the main market dynamics and described the main supply chains to consider?

a) Yes

b) No

c) Don't know

Please explain your answer.

Indeed, main actors, supply chains and dynamics have been explained and captured, as evidenced in the CMA Online platforms and digital advertising market study from 2019.

Question 5

Do you agree that we have described the main recent technological developments in online advertising in this section (section 2.2.2)?

a) Yes

b) No

c) Don't know

As above. New developments have also been mentioned in this section.

Please explain your answer.

Question 6

Do you agree that our taxonomy of harms covers the main types of harm found in online advertising, both in terms of the categories of harm as well as the main actors impacted by those harms?

a) Yes

b) No

c) Don't know

Please explain your answer, indicating any types of harm, or actors impacted by the harm that we have not captured, as well as any evidence to support your answer.

The list of types of harm seems comprehensive; the author would not propose to add to the presented taxonomy. There will of course be valid questions to be asked about how some of these harms are best addressed once identified. Clearly criminal content, such as fraud, should properly be notified to criminal authorities when prosecution is appropriate. It is appropriate for civil bodies to deal with what is identified as “legal harms”, of course – and this should properly be the key focus of any regulator making its own decisions as the primary deciding body.

Question 7

Do you agree that our above description of the harms faced by consumers or society cover the main harms that can be caused or exacerbated by the content of online advertising?

- a) Yes**
- b) No
- c) Don't know

Please explain your answer, including any harms that are not covered in our description. This may include any evidence you can provide on the frequency and severity of the harms, trend data, and/or impacts on protected groups.

The identification of the key harms is a sufficient description insofar as it goes. The potential problems are more likely to arise on an operation level with regards to the dangers of mission creep and any blurring of the distinction between illegal content and that which is “legal but harmful”.

Question 8

Do you agree that the above description of the harms faced by consumers or society cover the main harms that can be caused or exacerbated by the placement or targeting of online advertising?

- a) Yes
- b) No**
- c) Don't know

Please explain your answer, including any harms that are not covered in our description. This may include any evidence you can provide on the frequency and severity of the harms, trend data, and/or impacts on protected groups.

It is abundantly clear that targeted advertising can exacerbate the potential for harm. While the author would prefer to see the practice of targeting via automated algorithm outlawed entirely, this seems unlikely to be a realistic option from a commercial perspective. Technical solutions may be an option. For instance, it could be made a requirement for digital platforms which wish to use targeted advertising as either part or the core basis of their revenue model should be required to offer users a choice of opting out of categories of advertising, such as alcohol. There may be an

argument that certain categories of product should simply not be permitted to be advertised at all. Tobacco advertising was outlawed on the basis of the harmful nature of the product. Recent research into the harmful and addictive nature of gambling (as identified in studies including those referred to in this consultation document) suggest that, like tobacco, permitting legalised gambling but forbidding it from being advertised would be a sensible compromise between adult freedom and harm.

Mistargeting age-restricted products should certainly be limited. Suitability of advertisement for audience is, of course, a long-standing principle of the ASA and CAP's operation (see, for instance, the ruling on the Sophie Dahl for YSL Opium billboard advertisement in 2000, which was censured not for reasons intrinsic to the advertisement itself, but rather its inappropriate placement of the content where an audience not expecting sexualised nudity, including children, could be exposed to it). Discriminatory targeting of advertisements is another serious matter, and one which in some cases could border on the unlawful. For instance, a hotel using targeted advertising to avoid being seen by those in same-sex relationships in order to seek to subvert the bar on declining to offer service on the basis of sexuality.

Clearly many options to address these issues inevitably result in the collection of significant quantities of personal data, and often sensitive personal data, as well as data relating to children. While it is acknowledged that the government wish to deal with personal data issues separately in another consultation, it is of paramount importance that this not lead to a siloing of issues and thus key problems to be unaddressed. Where personal data is collected in order to facilitate targeted advertising, there needs to be much clearer information given in order to facilitate informed consent. Where this involves the collection of information for the purposes of age verification (in order to block unsuitable advertising from children), then strict conditions should be placed upon that information such that it may not be used for any other purpose.

Data protection limitations aside, there is much to be said for media-literacy type initiatives such as Google's advertising personalisation service. It is suggested that the legality of any targeted advertising model employed by platform providers should be conditional upon the offer of such a service, with proper attention drawn to it, and tied into high data protection standards.

Question 9

Do you agree with our description of the range of industry harms that can be caused by online advertising?

a) Yes

b) No

c) Don't know

Please explain your answer, including any harms that are not covered in our description. This may include any evidence you can provide on the frequency and severity of the harms, or trend data.

In broad terms the author would agree with the range of identified harms, if not with any suggestion that they all need to be or should be regulated with a view to protecting the advertiser. Contractual liability mechanisms may be a better way of dealing with problems caused by malfunctioning algorithms, for instance.

Question 10

Do you agree that we have accurately captured the main industry initiatives, consumer tools and campaigns designed to improve transparency and accountability in online advertising?

a) Yes

b) No

c) Don't know

Please explain your answer, including reference to any further industry initiatives, consumer tools or campaigns that we should be aware of.

Yes. The author would agree that this list is comprehensive. The largely extra-legal regulatory approach with statutory underpinning where necessary is a successful one. Co-operation with industry in this manner will often be more practical when dealing with international platform providers in particular than relying on jurisdictionally limited regulation.

Question 11

Should advertising for VoD closer align to broadcasting standards or follow the same standards as those that apply to online?

- **Broadcasting**
- Online

As technology has fundamentally changed the way people access media, VoD has become the *de facto* means for accessing alternative news, and entertainment. Furthermore, the audiovisual media services (without frontiers) utilized by various technologies have a significant impact on the media landscape and dramatically transformed the media value chain. Accordingly, broadcasting cannot be distributed extensively without technological invention. As a result, people consume media content online or on mobile devices while using social media instead of watching traditional television programs. Convergence and digitalization in the audiovisual media services have caused tensions between stakeholders in the media ecosystem; in particular, linear and on-demand (non-linear) audiovisual media services and content. According to the European Broadcasting Union, "this new development/digital era placing obligations and responsibilities exclusively on old providers of audiovisual content, such as television broadcasters is neither effective nor fair" (2015). In 2018 the European Parliament revised the Audiovisual Media Service Directive 2010/13/EU

to create a new framework that can adapt to the digitally shifted media environment's transformation. The revised AVMSD extends the EU audiovisual **content regulatory framework** to video-sharing platforms (VSPs) for the first time. It is intended to address the disconnection between traditional broadcast media's regulatory protection (i.e., television) and newer ways of consuming content (i.e., YouTube, Facebook). Furthermore, to improve legal certainty, after consulting relevant stakeholders of the EU Member States, the Commission adopted the guidelines on the definition of video-sharing platform services. In 2018 the revised AVMSD expanded the scope of the framework over video-sharing platforms (VSP) in Europe. One of the most salient aspects of the amended Directive is the introduction of the extended scope. This is the first time that media content related legislation at the European level addresses regulation on any kind. There was a grey area between the regulation of E-Commerce Directive² and AVMSD before the updated scope. Whereas the role of VSPs has developed rapidly in the audiovisual media value chain, this grey area in regulation became more problematic. By creating a new legal category and regulatory obligations for VSPs, the revised AVMSD seeks to overcome this issue. Therefore, new regulation for VoD advertising that is aligned to broadcasting standards is needed to align the UK approach with the rest of Europe.

Question 12

To what extent do you agree with our rationale for intervention, in particular that a lack of transparency and accountability in online advertising are the main drivers of harm found in online advertising content, placement, targeting, and industry harm?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- **Somewhat disagree**
- Strongly disagree

Clearly, accountability and transparency are crucial justifications for new regulation for online advertising. However, these are not the main reasons for justifying additional regulation. Advertising has always operated on similar principles – when someone advertises a political idea, a product or a service across traditional media outlets, the ‘other side’ can counteract with additional advertising. However, data-driven personalization and convergence around mobile devices, mean that the ‘other side’ no longer knows what advertising is delivered to data subjects and consumers. Side-by-side, personalization and data-driven ads are only given a perfunctory check by social media platforms with little oversight of the *content* that appears in the feeds of timelines who are either vulnerable consumers or already inclined to be susceptible to the ad’s message. Therefore, the main rationale for intervention is that there is a very

² E-Commerce Directive 2000/31/EC

visible gap in meaningful content regulation. Transparency provided limited means to plugging this gap.

Question 13

To what extent do you agree that the current industry led self-regulatory regime for online advertising, administered by the ASA, to be effective at addressing the range of harms we have identified in our taxonomy of harms in section 3.3

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- **Strongly disagree**

The ASA's regime is no longer sufficient for regulating the content that appears harmful. This is two-fold. The user does not always recognize that they are looking at an ad – native advertising, astroturfing-based ads³, influencer advertising, demographic-based advertising are all nuanced methods of deployment in scale and efficiency in the digital environment. The second is that content is increasingly approved and validated by non-human entities like Artificial Intelligence and delivered into the social media feeds automatically. Means are not available to users whereby they can capture a copy of a personalized ad delivered via social media platform. There are increasing incidents where hate speech is delivered via an advertising campaign (e.g., 'Ban the Burqa'⁴; 'Sharia law is coming to Europe – Click here to learn how to stop it'⁵) or increasingly used to drive traffic to an outlet commonly associated with spreading white nationalist propaganda and anti-immigrant rhetoric. The ASA's regulatory scope does not extend to political advertising, but the examples provided above are clear examples of commercial speech designed to drive traffic to a website masking as political speech. By itself, the content is harmful. But when you add in personalization and data-driven targeting to the mix, the content becomes *more harmful*. The continuation of self-regulation by the ASA is not only no longer desirable, but it does also not reflect the technological advances that have been made in dissemination. Finally, the ASA does not regulate the right actors and should have broader scope to cover all type of ads – commercial, political party-based ads, AND political issue ads that too often rely on the regulatory hole to evade meaningful oversight in the name of 'protected political speech'.

³ Leiser M., "AstroTurfing, 'CyberTurfing' and other online persuasion campaigns", in European Journal of Law and Technology, Vol 7, No 1, 2016.

⁴ https://vid.alarabiya.net/images/2014/09/22/34427a55-5d73-41f7-bc2c-b4e76aa53881/34427a55-5d73-41f7-bc2c-b4e76aa53881_16x9_1200x676.jpg

⁵ https://factcheck.afp.com/sites/default/files/styles/list_xs/public/medias/factchecking/sharia_fb.jpg?itok=m7KZJWoC

Question 14

Do you consider that the range of industry initiatives described in section 4.3 are effective in helping to address the range of harms set out in section 3.3

- Yes
- **No**
- Don't know

As the industry initiatives are heavily weighted towards limiting the number of ineffective ads (ad fraud, malware, placement, etc.), they are not designed to police deceptive and misleading content, nor are they designed to capture the types of hate speech and polarizing content that is commonly found on users' timelines. GARM is only *seeking to define* harmful content. This is unacceptable in the present era whereby everyone has working definitions of hate speech and harmful content. Development of the use of AI in advertising content moderation is admirable, but also inherently dangerous as reliance on technological tools can result in false positives, while also letting harmful content get past technologies. As AI often is built on machine-learning initiatives, then the AI could learn that harmful content becomes acceptable without any meaningful human oversight. There is no evidence that users know how to report a streaming ad playing in their Instagram feed or the social media accounts via TikTok and/or Snapchat. There is also a presumption that reporting will amount to ASA reporting, when it will only be a report to the social media hosting the questionable ad.

Question 15 (a)

Which of the following levels of regulatory oversight do you think is appropriate for advertisers?

- Continued industry self-regulation with some backstopped areas (status quo)
- Backstopped regulation for all or some additional high risk areas of harm
- **Statutory regulation**
- Other (please specify)

Question 15 (b)

Which of the following levels of regulatory oversight do you think is appropriate for platforms?

- Industry self-regulation
- Backstopped regulation for all or some higher risk areas of harm
- **Statutory regulation**
- Other (please specify)

Question 15 (c)

Which of the following levels of regulatory oversight do you think is appropriate for intermediaries?

- Industry self-regulation
- Backstopped regulation for all or some higher risk areas of harm
- **Statutory regulation**
- Other (please specify)

Question 15 (d)

Which of the following levels of regulatory oversight do you think is appropriate for publishers?

- Industry self-regulation
- **Backstopped regulation for all or some higher risk areas of harm**
- Statutory regulation
- Other (please specify)

Question 16

Following on from your answer to question 14, do you think a mix of different levels of regulatory oversight may be warranted for different actors and/or different types of harm?

- a) Yes
- b) No
- c) Don't know

Please explain your answer, include an outline of your proposed approach.

There are a few elements to outline in this question. A mix of different levels of regulatory oversight are warranted due to different types of harmful content and different implications to multiple actors within the supply chain. This means that prior to the development of regulatory frameworks, it is important to take into consideration the following: Firstly, in the taxonomy provided in the Online Advertising Program consultation, some harms are categorised as illegal, others are classified as legal harms, while other industry harms and some consumer harms lack classification altogether. There should be a clear differentiation between harmful content and illegal

harmful content. Lack of a clear taxonomy might lead to legal uncertainty, thus legal content might be removed, encroaching upon the right to freedom of expression and intervening with the consumers' freedom of choice.

Secondly, online advertising has different implications for the actors who operate within the supply chain. For instance, with regard to end-users, concerns around their privacy and data processing and consumers' behavioural biases prevail.⁶ For the advertisers, a recent study from the Competition and Markets Authority reveals that large platforms have their own advertising services, thereby prompting competition concerns. More specifically, the study indicates that Google's policies on ad load has led a high number of internet users to click on ads rather than organic links.⁷ This implies that smaller purchasers might need to pay higher prices for advertising in order to maintain the traffic within their networks. For advertising intermediaries, it has been evidenced that the smaller suppliers seem disadvantaged in comparison to the larger suppliers, such as Google, Facebook, and Amazon, because they are facing higher transaction costs to enter into, and expand within, the supply chain.⁸

Finally, we urge regulators to ensure that the introduction of any regulatory framework should adhere to transparency, proportionality, and accountability requirements. In addition, any code of conduct or new regulatory body must be independent from any political and/or industry influence and in particular in its funding. Otherwise, there is a risk of impeding internet users' informed decisions and consumers' freedom of choice, as well as disrupting innovation.

Question 17

What is your preferred option out of the three permutations described under option 2?

a) Permutation 1

b) Permutation 2

c) Permutation 3

Please explain your answer.

Permutation 2 seems a favourable option since there is already evidence of a similar frameworks in other jurisdictions. For instance, in Ireland any complaint arising from a breach of the ASAI code which concerns unfair commercial practices are addressed to the Advertising Standards Authority for Ireland.⁹ Severe breaches of the ASAI code

⁶ European Parliament, 'Online advertising: the impact of targeted advertising on advertisers, market access and consumer choice' (2021) Study requested by IMCO Committee 31.

⁷ Competition and Markets Authority, 'Online platforms and digital advertising: Market study final report' (July 2020) 237.

⁸ European Parliament, 'Online advertising: the impact of targeted advertising on advertisers, market access and consumer choice' (2021) Study requested by IMCO Committee 42-43.

⁹ Advertising Standards Authority for Ireland (ASAI), Webinar on #InfluencerMarketing in 2021 is available at <
<https://www.asai.ie/news/influencermarketing-in-2021-and-beyond-2/>>

are referred to the Competition and Consumer Protection Commission.¹⁰ In addition, at the European framework, the proposal for a Digital Services Act Regulation endorses codes of conduct as per Article 36 and appoints self-regulators (Digital Services Coordinators), as per Article 38, in order for consumers to seek redress in the context of online advertising. Finally, in the UK, the Data Protection Act 2018 includes the drawing up of codes of conduct and the appointment of independent supervisory authorities in EU member states. The codes of conduct include information about fair and transparent processing of data as well as information about notification of personal data breaches to national supervisory authorities and out of court remedies.

Question 18

For each of the actors, which measures (set out in the tables in Sections 6.1.3 and 6.1.4) do you support and why?

Please explain your answer.

Transparency requirements for all actors in the supply chain should be mandatory and are very welcome. They will address data sharing by online consumers as well as the methods used by advertisers/online intermediaries to reach users through advertisements. This understanding has already been applied in other jurisdictions. At the European level, the proposal for the DSA Regulation entails a statutory provision for transparency in targeted advertising. More specifically, pursuant to Article 24, platforms are required to provide users with specific information on the advertisements they visualize, “in a clear and unambiguous manner and in real time”, while the IMCO Committee report on the proposal for a Digital Services Act outlines in Article 30 (2) that transparency is also required as to “whether one or more particular groups of recipients have been explicitly excluded from the advertisement target group”.¹¹ At the same time, in the UK the same obligation is addressed in the Online Intermediation Services for Business Users (Amendment) (EU Exit) Regulations 2020 which promotes fairness and transparency for business users in intermediation services.¹² Article 9 of the Regulation states business users shall be provided with any information related to the access to any personal data that has been gathered through the use of online intermediary services. Finally, there is a serious concern with regard to lack of transparency in digital influencers’ marketing due to the prevailing concerns for misleading advertisements, or the inability of consumers to identify ads posted by digital influencers on their profiles.

¹⁰ ASAI Code.

¹¹ IMCO Committee report on Digital Services Act Regulation, Article 30 (2).

¹² Online Intermediation Services for Business Users (Amendment) (EU Exit) Regulations 2020

Question 19

Are there any measures that would help achieve the aims we set out, that we have not outlined in the consultation?

Measures against disguised advertising should be taken into consideration at the consultation. It is challenging for consumers to identify native advertising in online social media. At European level, the study initiated by the European Commission refers to two experiments where consumers cannot distinguish between native ads and paid-ads.¹³ In addition, the same study notes that stakeholders interviews reveal the difficulty for consumers to recognise disguised advertising and, therefore, are left unaware of the commercial intent of the ad.¹⁴ We argue that a duty of professional diligence for advertisers shall be explicitly stated in the online marketing business.¹⁵ In addition, it is important to inform the current classification of harms with content related to political advertising, ads for spyware or stalking of individuals, online ads for fundraising for environmental or social purposes, as well as online ads based on AI technology. Finally, an opt-in approach shall be encouraged for targeted advertising to consumers.¹⁶

Impact Assessment questions

Question 1

Do you have any further evidence of harms experienced by consumers and/or advertisers?

No, we agree with what has been mentioned in the Impact Assessment and the CMA Online platforms and digital advertising market study.

Question 2

Can you provide any evidence on the costs and effectiveness of measures your organisation has implemented to prevent the harms outlined?

a) Yes

b) No

¹³ European Commission, 'Behavioural Study on Advertising and Marketing Practices in Online Social Media; Final Report' (2018) DG for Justice and Consumers 37.

¹⁴ European Commission, 'Behavioural Study on Advertising and Marketing Practices in Online Social Media; Final Report' (2018) DG for Justice and Consumers 35, 37-38.

¹⁵ See also C. Riefa and L. Clausen, 'Towards fairness in digital influencers' marketing practices' (2019) 8 Journal of European Consumer and Market Law 67-74.

¹⁶ European Parliament, 'Online advertising: the impact of targeted advertising on advertisers, market access and consumer choice' (2021) Study requested by IMCO Committee 96.

c) Don't know

Please explain your answer and provide relevant evidence.

We are an academic organisation, so we have not implemented these measures ourselves. Our membership (Higher Education Institutions, particularly in the UK), however, has actively worked on researching and evidencing online advertising harms.

Question 3

Do you agree with our assumptions on the costs incurred under option 2 and under option 3 (e.g. number of businesses in scope, transition and ongoing costs)?

a) Yes

b) No

c) Don't know

Please explain your answer and provide relevant evidence.

These estimates look reasonable to me. As is noted, much of the action required will be on the part of, and primarily at the expense of, the platform providers. The author finds this entirely acceptable. Large social media providers make a substantial profit from facilitating targeted advertising in particular, so it seems reasonable that they should meet the cost of compliance with advertising standards.

Question 4

Do you agree with our assumptions on the benefits of the proposed measures (e.g. an annual baseline cost of fraud of £400m and a 5% annual increase in fraud incidents)?

a) Yes

b) No

c) Don't know

Please explain your answer and provide relevant evidence.

Yes, these seem a reasonable assessment of potential benefits of this course of action.

Question 5

Can you provide any further evidence to refine the assessment of costs and benefits under option 2 and 3?

c) Don't know

These estimates look reasonable. But it is impossible to provide further evidence that would refine any costs/benefits

Question 6

Do you agree that the qualitative assessment of the likelihood of harm reduction taking place under option 2 and 3 is a fair assessment?

c) Don't know

Question 7

Which mitigation measures should be considered to support small businesses and to ensure that they will not be affected disproportionately by the new regulatory measures?

Please explain your answer.

The 'one-size-fits-all' type of Regulation has proved to be unsuccessful in the digital world. For this reason, it is important for the proposed measures in Question 18 of the consultation to consider the business size. Telling examples can be found in the Copyright in the Digital Single Market Directive (Directive (EU) 2019/790) and the proposed Regulation for a Digital Services Act. More specifically, Article 17 (6) of the Copyright in the Digital Single Market Directive classifies the obligations imposed on the online content sharing service providers, depending on their annual turnover and the years of operation. In the same vein, the proposed Regulation differentiates between online platforms and very large platforms, with the latter having 45 million or more active users. Also, the proposed Regulation notes that very large online platforms are subject to additional obligations, namely systemic management risk obligations. For instance, as per Article 26 (2), very large online platforms are required to conduct assessments in order to examine whether their content moderation or systems for displaying advertisements have an impact on users' fundamental rights. In this light, potential measures should be contingent upon the size of the business model. A taxonomy of business is important in order to ensure that small businesses are continuing their operation without investing in additional resources. Otherwise, innovation might be disrupted.

Question 8

Can you provide details of any monitoring system already in place that records the adverts delivered to internet users?

White Bullet Solutions Limited (Ltd) uses an Ad Monitoring System. In 2019 and 2020, it was commissioned by the European Commission to assess the amount and the kind of online advertising that is placed on IP-infringing websites, as well as to estimate the ad-revenues on these sites.¹⁷ Google uses Google ads which is an online advertising platform and offers conversion trackers that monitor the behaviour of internet users upon receiving the ad.¹⁸ In addition, Google uses Real-Time Bidding (RTB) that tracks what online consumers look at on the web. The report by the Irish Council from Civil Liberties has found that the RTB shares individuals' data 376 times a day.¹⁹

This response has been approved by the Executive of BILETA (the British and Irish Law, Education and Technology Association and is therefore submitted on behalf of BILETA.

In addition, this response is submitted by the following individuals:

Dr Ruth Flaherty, Lecturer in Law, University of Suffolk

Dr Guido Noto La Diega, Associate Professor in IP and Privacy Law, University of Stirling

Dr Mark Leiser, Assistant Professor in Law and Digital Technologies, University of Leiden

Dr Maureen Mapp, Associate Professor, Birmingham Law School

¹⁷ European Intellectual Property Office, 'Online advertising on IPR- Infringing websites' (February 2021) 14.

¹⁸ AdWords API, accessed at < <https://developers.google.com/adwords/api/docs/guides/conversion-tracking>>

¹⁹ ICCL Report on 'Scale of Real-Time Bidding data broadcasts in the U.S. and Europe: The Biggest Data Breach' (2022) 1.