



Safety first: Why the Online Safety Bill should tackle scam adverts

Key points

- The government has acknowledged the urgent need to address online scams. But by excluding paid-for content from the Online Safety Bill, it leaves millions of internet users - particularly those with mental health problems - in danger of losing money or sensitive personal information to scammers.
- The draft Bill's narrow focus on user-generated scams will cause confusion for both internet users and companies. It places a new duty on social media firms and search engines to remove some scams from their websites, but not others - ignoring some of the most commonly seen scams.
- Despite this different treatment, user-generated posts and paid-for adverts are often hard to distinguish. Research commissioned by the Advertising Standards Authority found that only two-thirds of people were able to identify that a social media post was definitely an advert, leaving a significant minority who were less confident. Adopting different regulatory approaches to two types of content that people struggle to tell apart will, in practice, make reporting and redress extremely difficult.
- The exclusion of scam adverts also creates grey areas and perverse incentives for scammers to create advert content. For instance, while the government intends the Bill to cover online romance scams, some dating apps allow people to pay to promote their profile, potentially making this paid-for content and therefore outside the scope of the Bill. This distinction could enable scammers to pay relatively small amounts of money to promote their content and take it out of scope of this new regulation.
- The government could avoid these pitfalls by including scam adverts in the Bill. The systems and processes the Bill will require online firms to implement to control user-generated content will be similar to those needed to police adverts anyway, minimising additional work. The government's own analysis suggests the cost to online services of the new processes for user-generated content would be outweighed by the savings to those who would be protected from scams.
- The government plans to consult on changes to advertising regulation and launch a fraud action plan. Meaningful change to advertising regulation would likely take years while the Online Safety Bill, on the other hand, is soon to begin pre-legislative scrutiny, offering the government a faster and more direct route to tackling scam adverts online. Using the Bill to place a duty on online firms to stop scam adverts appearing on their services in the first place, and to remove them rapidly when they do, would help to protect millions of internet users and contribute to the government's goal of making the UK the safest place in the world to be online.

Background

In May 2021, the government published the draft Online Safety Bill, with the stated intention of “making the UK the safest place in the world to be online”.¹ To achieve this, the Bill will place a duty of care on online platforms and services like social media sites, online marketplaces and search engines. Firms will be required to prevent harmful content appearing on their websites and to take swift action to remove it if it does. Failure to do so will see firms hit with fines of up to 10% of their annual global turnover. Currently, however, the draft Bill only addresses user-generated content, for example a typical social media post.

One of the biggest dangers online today is losing money and personal information to scams. But while the government does intend to use the Bill to tackle scams in user-generated content, scam adverts - which often appear in the same online spaces and can be hard to distinguish from user-generated posts - will not be included.² This leaves a significant gap in consumer protection which will expose millions of people to harm.

The impact of online scams

Scams - whether from user-generated content or paid-for adverts - can have a terrible impact on people's finances. In nationally representative polling, we found that 13% of online scam victims cut back on essential spending such as groceries as a result of being scammed.³ Online scams can also cause serious psychological harm: four in ten (40%) online scam victims have felt stressed and three in ten (28%) have felt depressed as a result of being scammed.⁴

“I don't have any spare money and the loss hit me financially and mentally. I get angry at myself for being taken in, it makes me feel vulnerable and weak.”

“It was very stressful and made me feel stupid for falling for the scam as I think I'm stupid anyway. This made me have terrible negative thoughts about myself and so annoyed.”

We also found that online scams can make people less trusting of others and lead them to feeling less confident when using the internet.⁵

“[After being scammed I was] very shaken and felt as if I had been personally attacked. For a long time I was unable to use the internet.”

While anyone can lose money or personal details to a scam, people with mental health problems are three times more likely to have been the victim of an online scam.⁶ When experiencing a mental health problem, it can be harder to process information and make informed choices, so spotting fraudulent content can be challenging. Many people with mental health problems experience increased impulsivity, which can be exploited by scammers who put victims under pressure to act quickly. People with mental health problems also have lower typical incomes and comprise half of those in problem debt,⁷ meaning that if a scam does result in financial losses, the harm caused can be severe.

The prevalence of scam adverts

Whichever form they come in, scams are all too common online. Half of adults reported they had seen a scam advert on social media at least once a month (50%) and four in ten (43%) had seen a user-generated scam in the same period.⁸ But with only user-generated scams being targeted by the Online Safety Bill, the prevalence of scam adverts presents a huge barrier to the government's aim of making the UK the safest place to be online.

Scam adverts come in a variety of guises. Links leading to websites that replicate the design of well-known companies or that claim to have celebrity endorsements - with Martin Lewis among the most-used high-profile names⁹ - seek to reassure users that it is safe to provide financial or personal information.

In a survey of our Research Community - a group of 5,000 people with lived experience of mental health problems - we found that many have been the victim of a scam that is currently not included in the draft Bill. For example, 15% said they had lost money or personal information to a scam advert on social media, 11% were scammed by a promoted or sponsored item on a marketplace and 11% were the victim of a scam advert which appeared at the top of search engine results.¹⁰

“The advert was on Facebook. It was to enter a competition which I now know they use to get your email details and social media information.”

“I purchased a paper to enter into Canada which should have been £5 but the search engine took me to another address. I ended up paying £184 each for me and my husband and I could not do a thing about it.”

How the current system fails

While leading online platforms and websites report that they do analyse the adverts they carry before publication and stop much fraudulent content from appearing, it is clear that their current efforts are ineffective. With patchy prevention, the onus is on users to spot scam adverts. But recent research by Which? discovered that many people, including those who believed they could spot a scam online, were unable to identify a scam advert on a social media feed.¹¹ Our Research Community survey found similar issues, with many people saying they were wary of adverts on social media sites but had still fallen victim to scam adverts, and that being unwell at the time can increase this risk.

"I am often a bit sceptical of these adverts. I tend to ignore them. [But] if they catch my attention, I sometimes don't remember to check if they're legitimate."

An added contributor to this harm could be the trust that many people place in social media platforms to protect their users.¹² One of our Research Community respondents explained that they had fallen victim to an online scam advert, believing that the platform would have prevented such content from appearing.

"I did trust adverts on social media, but no longer. I believed that the companies (Facebook/Instagram) would protect their users."

It is possible for internet users to report scams they see online, though our previous research has found this can be an arduous and unclear task, particularly for those experiencing a mental health problem.¹³ With different organisations involved in policing scams, knowing which bodies to alert presents an initial challenge. Research Community members told us how the process itself can be a struggle, with a lack of clarity over how exactly concerns should be flagged, locating the reporting tool and what category they fall into in pre-populated lists of potentially harmful content. Even if users do manage to report a scam advert, the follow-up action taken by online services can often appear minimal or non-existent.

"You can report scam adverts but even though you ask not to see them again they come up time and time again. These companies don't seem to care or take notice. I have never been contacted after reporting a scam."

With scams widespread, an approach which fails to prevent so many fraudulent adverts from appearing, and relies on individuals to avoid often sophisticated scams - and report them when they see them - places too much responsibility on users and not enough on online firms.

Why the government's proposed approach is flawed

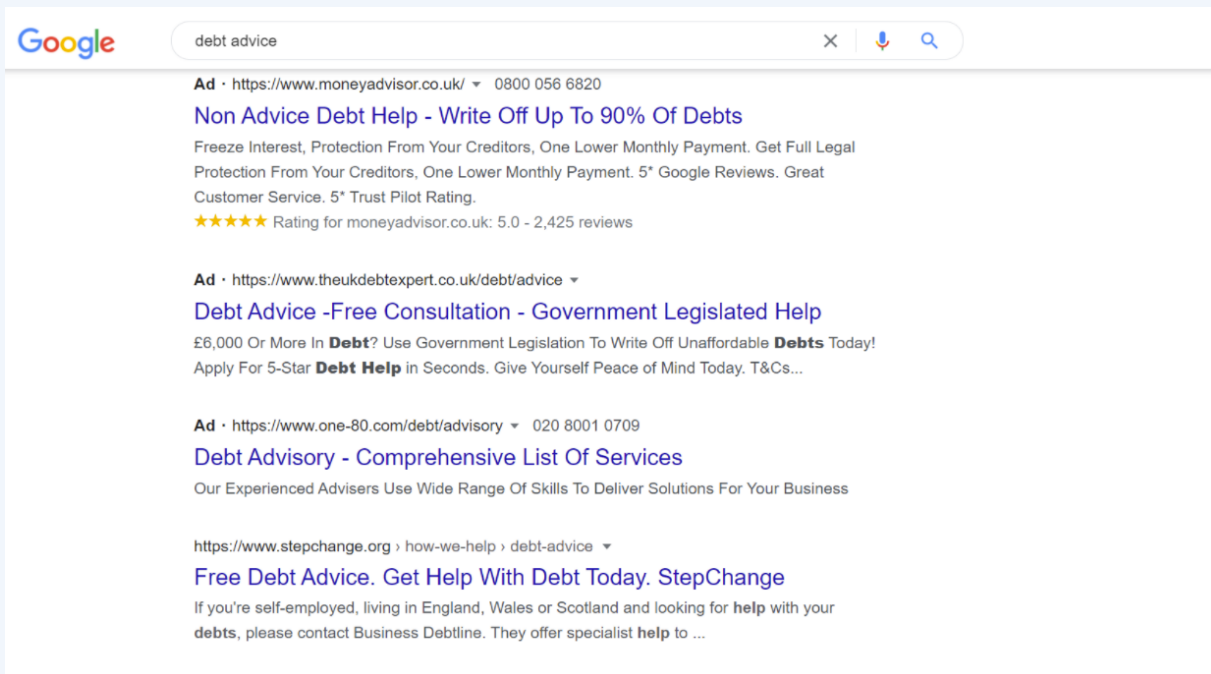
Against this backdrop of prevalent and serious harm, the government's commitment to tackle user-generated scams online is a welcome start. But the distinction drawn in the draft Bill between user-generated scams and scam adverts is unclear, unhelpful and could incentivise online platforms and services to focus on some kinds of fraudulent content but not others.

While in other media, there is a clearer dividing line between what is an advert and what isn't, that difference is much blurrier online. Adverts and sponsored content are frequently built into the user experience of many websites and are often only identifiable by a small tag saying 'Ad' or 'Promoted', as shown in Figure 1. Research for the Advertising Standards Authority (ASA) found that two-thirds of people (66%) were able to identify that a post on social media was definitely an advert but this still leaves many who were uncertain.¹⁴ Differentiating between adverts and other content can be even more difficult when someone is unwell; eight in ten (82%) Research Community respondents agreed that it can be difficult to tell the difference between the two types of content when experiencing a mental health problem.¹⁵

The government itself recognised this unclear boundary when it explained that promotional posts by 'influencers' would be covered by the Online Safety Bill as "these are often indistinguishable from other forms of user-generated content".¹⁶ Despite this, other promotional content - where the online platform, rather than an individual influencer, is paid to host and promote the content - will be excluded under current government plans.

Introducing different regulatory approaches to often similar content risks making monitoring, reporting and redress hugely confusing, adding another unnecessary hurdle to limiting the harm done by scams.

Figure 1: Differences between paid-for and 'organic' content is often minimal



The distinction between paid for ads and organic results in search engines may not always be clear - only a small label distinguishes between the two, as shown in this search for debt advice.



'Organic' promotional posts from celebrities, such as those on the left from @VirgilvDijk and @KimKardashian, would be in the scope of the Online Safety Bill. Paid for ads, such as on the right would be out of scope of the Bill.

Beyond the inconsistency and confusion this is likely to cause, the different treatment of content could create a perverse situation in which a scammer could evade scrutiny by paying to promote a user-generated post, moving it out of scope of this new regulation. Romance scams - which the government has specifically signalled will be in scope - are often carried out through dating websites and apps. Some of those services,

however, allow users to pay to promote their profile so it features more prominently, leading more people to see it. Following the logic of the government's outlined approach, scams initiated through such paid-for promotion would be out of scope. This means that if a romance scammer is able to pay to reach even more potential victims, they could avoid the new user-generated checks that online services will have to adopt.

Box 1: What appears to be in scope and what is out

In Scope	Out of scope
'Organic' search results	Paid-for search results
Most user and brand posts on social media, including posts by 'influencers' promoting products on behalf of companies	Paid-for adverts and promoted posts on social media, including those promoting products by companies
Romance scams on dating sites	Scams through promoted profiles on dating sites

Limitations of the government's alternatives

Rather than use the Online Safety Bill to address the harm caused by scam adverts, the government plans to pursue other avenues. This includes a Home Office fraud action plan and a Department for Digital, Media, Culture and Sport (DCMS) consultation on advertising regulation.¹⁷ To date, regulation of advertising has focused on the advertiser and the content of the advert, such as what can be included in a gambling advert. Less has been asked of the publisher of the advert. It is clear that this approach has failed to prevent the epidemic of online scam adverts.

While the content of the DCMS consultation is unknown, meaningful change to advertising regulation - for instance, placing much greater responsibility on online platforms for the content of the adverts - would mark a major shift in the UK's approach to advertising regulation, moving further away from the current model of self-regulation. Such a change would naturally involve an extended period of consultation, responses and drafting of legislation, as well as potentially a new regulatory body or changes to the ASA's remit, structure and funding. Through this approach, even if the changes proposed are sufficient - which remains to be seen - we would expect significant action on scam adverts to take several years, leaving vulnerable people at risk.

In contrast to the uncertainty and long lead-in time required to redesign advertising regulation, the Online Safety Bill offers the government an ideal opportunity to take concrete action on scam adverts through legislation that is soon to be scrutinised by MPs and Lords.

What needs to happen and what it will mean for companies

Under the government's current plans, online services will be required to have systems and processes to minimise the presence of illegal user-generated content. For harms deemed a priority - these will be set out in secondary legislation outside of the Online Safety Bill - there will be a duty placed on online services to prevent such content from appearing publicly in the first place. For both these harms and others classed as non-priority, online firms will need to have effective reporting channels, allowing users who spot such content to alert the service and remove it swiftly.. Given their prevalence and the wide-ranging and severe impact they can have on those affected, all online scams should be treated as a priority area for action. Ensuring the Online Safety Bill duties covers scam adverts as well as user-generated fraud would introduce a legal backstop to enable companies to be heavily penalised if they fail to more effectively protect their users.

This will lead to increased costs for online platforms and services. But as the government recognised when it committed to tackling user-generated scams through the Bill, the costs to such businesses will be insignificant compared to the current cost of online scams.¹⁹ In particular, this cost falls most sharply on vulnerable people, including those of us with mental health problems who are more likely to be scammed. The systems and processes online firms will have to implement are also unlikely to be dramatically different from those for user-generated content, potentially reducing the time and cost of doing so compared to building a different approach for the two types of scams.

The cost of increased scrutiny of adverts may be passed by online services onto businesses wanting to advertise. These could include false negatives where an advert is taken down but it isn't a scam or increased time to have an advert placed. However, the lack of action on scam adverts is leading some people to not trust adverts at all. For example, four in ten (43%) Research Community respondents said they would be unlikely to trust an advert on social media by a well-known company that they don't currently 'follow' or 'like'.²⁰

"Companies lose out as well when scam adverts are being used and it makes people less trustful of legitimate adverts from honest companies."

There is strong public support for more action to be taken by online services to prevent harm from scam adverts. Nationally, eight out of ten (81%)

people think that online services should be required to prevent scams from appearing on their sites, with backing from our Research Community too.

"I would like to see more accountability from the big companies as they have the money and resources to stop these adverts being posted. Also the government should implement more laws to force these companies to take down these adverts and penalise them for not doing enough."

The government should follow through on its commitment to tackle scams online by including adverts in the scope of the Bill, protecting millions of internet users from financial and psychological harm.

Footnotes

¹ Online Safety Bill update - statement made by Oliver Dowden, Secretary of State for Digital, Culture, Media and Sport. 12 May 2021. Accessed 15/06/2021. <https://questions-statements.parliament.uk/written-statements/detail/2021-05-12/hcws12>

² The draft Bill considers content a "paid-for advertisement" if a) the online service that publishes the post receives payment for it and b) the placement of the advert is agreed between the person or company paying for the advert and the online service publishing it. Draft Online Safety Bill, chapter 6

³ Holkar M and Lees C. Caught in the web. Money and Mental Health Policy Institute. 2020.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Holkar M, Lees C and D'Arcy C. Safety Net. Money and Mental Health Policy Institute. 2021.

⁹ See for instance <https://www.bbc.co.uk/news/technology-57051546>

¹⁰ Money and Mental Health Survey of 175 members of our Research Community, carried out between 4th and 14th June 2021. Base for this question: 149 people with lived experience of mental health problems.

¹¹ Which? Connecting the world to fraudsters? 2020.

¹² Ibid.

¹³ Holkar M and Lees C. Caught in the web. Money and Mental Health Policy Institute. 2020.

¹⁴ Ipsos Mori. Research on the Labelling of Influencer Advertising. On behalf of the Advertising Standards Authority. 2019.

¹⁵ Money and Mental Health Survey of 175 members of our Research Community, carried out between 4th and 14th June 2021. Base for this question: 146 people with lived experience of mental health problems.

¹⁶ Department for Digital, Culture, Media and Sport. The Online Safety Bill - Impact Assessment. 2021.

¹⁷ The Financial Conduct Authority has also indicated its intention to take greater action on online services who allow fraudulent financial promotions to appear. While welcome, this would only affect a subset of scam adverts.

¹⁸ DCMS. The Online Safety Bill. 2021.

¹⁹ DCMS. The Online Safety Bill - Impact Assessment. 2021.

²⁰ Money and Mental Health Survey of 175 members of our Research Community, carried out between 4th and 14th June 2021. Base for this question: 154 people with lived experience of mental health problems.